

WRITE TO INFORMATION

Sports and Gaming
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New Delhi

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ABOUT US

TMT Law Practice is a boutique law firm providing a full suite of services in the TMT sectors. Over time, the firm's practice has expanded from a niche boutique IP practice, to include practice areas such as commercial disputes resolution & arbitration, regulatory litigation &advisory, corporate/commercial advisory and transactional support, and policy and legislative drafting across industry verticals. The Firm represents a broad range of clients including Fortune 500 companies, as well as MSMEs and Start-ups.

The firm engages in the practice of the conventional domains of law, and, is also heavily invested in the niche areas of emerging technology, including space technology and policy; healthcare and ICT; data privacy and protection; and, sports laws.

The Firm stresses on developing well-rounded, solution - oriented professionals, who specialize in client - focused service delivery.





1. SPORTS LAW UPDATES

A. GOVERNANCE

i. Indian Olympic Association (IOA) amends its Constitution¹

The IOA adopted the amended constitution at its' special general meeting on 10 November 2022. The Supreme Court (SC) had accepted the recommendations of court-appointed committee headed by retired Justice L Nageswara Rao. Under the new constitution the State Olympic Committees shall not have any voting rights for any decision or for the elections and have been reduced to an Associate Member. The Secretary General shall not be an office bearer and will now be appointed by the Executive Council, all executive committee members shall fall under the definition of office bearers, equal representation of male and female members in the IOA General Assembly which will be made of two representatives - one male and one female - of the national sports federations. Further, eight representatives who are sportspersons of outstanding merit are eligible to stand for elections and cast their votes at the Annual General Meeting and the Special General Meeting of the IOA.

ii. Table Tennis Federation of India (TTFI) gets a new governing body²

Meghna Ahlawat was elected as the President of the TTFI with former stalwart Kamlesh Mehta elected as the Secretary General. Elections were held for 25 posts, three of which were reserved for women. The elections are a huge relief as the International Table Tennis Federation (ITTF) Executive Committee had proposed the suspension of TTFI. The Delhi High Court had suspended TTFI in February 2022 and appointed a three-member Committee of Administrators (COA) to take over its functioning. The election brought an end to the COA's charge over the national sports body.

iii. BCCI implements pay equity policy for Women Cricketers³

The Board for Control of Cricket in India (BCCI) announced implementing pay equity policy for its contracted women cricketers. In the 15th BCCI Apex Council meeting held

via video conference, the members passed the resolution unanimously. Elaborating on the revised pay structure, BCCI Secretary Jay Shah said that the match fee for female cricketers will be the same as for male cricketers. He said that the fees for Test match would be Rs 15 lakh, for ODI would be Rs 6 lakh, and for T20I would be Rs 3 lakhs.

iv. Cricket Australia (CA) amends its Code of Conduct⁴

In the recent amendment to the Code of Conduct, players and support staff involved in Australian cricket can now apply to have long-term sanctions modified. CA has stated that a three-person review panel would consider applications to repeal longterm sanctions and take into account time served and other factors. Under the new rules, a player must show that exceptional circumstances exist to justify modifying a sanction. In light of this amendment, former captain David Warner had made an application to overturn his life ban from leadership roles. Warner was banned from the game for a year and from leadership positions for life after he was adjudged to have played the leading role in the 2018 Newlands ball-tampering scandal, also known as the 'Sandpapergate' scandal. However, Warner withdrew his application accusing the independent panel conducting the review of wanting to publicly lynch him. Warner alleged that the counsel assisting the review had made offensive and unhelpful comments about him during the initial process.

v. Amendments to the Code of Sports-related arbitration⁵

The International Council of Arbitration for Sport (ICAS), the governing body of the Court of Arbitration for Sport (CAS), has adopted amendments to the Code of Sports-related arbitration (the CAS Code). ICAS has decided to increase the number of ICAS members from 20 to 22 in order to guarantee a better representation of football stakeholders, in view of the significant increase of the number of arbitrations related to football conducted by CAS. The additional two ICAS members will function from the beginning of the



upcoming four-year term starting 2023. Adjustments have been made to several articles of the Procedural Rules that govern CAS arbitrations in order to tighten up the existing language, to bring them into line with current practice and jurisprudence, and to enhance the efficiency of the CAS services.

vi. Lawn Tennis Association (LTA) fined \$1million by ATP for banning Russian players from tournaments ⁶

The LTA have been fined \$1million by the Association of Tennis Professionals (ATP) for banning Russian and Belarusian players from their tournaments. It is also understood that the LTA have been threatened with expulsion from the Tour if it decides to enforce the ban again after the nationalities were banned from Wimbledon, Queen's Club, Eastbourne, Surbiton, Nottingham and Ilkley this year. As a result, Wimbledon was stripped of its ranking points by the ATP and the Women's Tennis Association (WTA) with the WTA also issuing a \$1million fine. The LTA in its' statement said that the ATP, in its finding, has shown no recognition of the exceptional circumstances created by Russia's invasion of Ukraine, or the international sporting community and UK Government's response to that invasion and instead appear to regard this matter as a straightforward breach of their rules. The LTA have appealed against the WTA's decision and sanction.

vii. Scottish Football Association (SFA) to ban Scottish footballers from heading ball before and after matches⁷

Professional footballers in Scotland will be banned from heading the ball the day before and the day after matches after studies showing how it can affect the brain. Clubs are also being advised to limit heading balls in training to one session a week because of the links between repetitive heading of a football and brain damage. The guidance by the SFA comes after a study revealed former professional footballers were three and a half times more likely to suffer from dementia and other serious neurological diseases. The guidance introduced on Monday will come into immediate effect, including the banning of exercises with

repeated heading of the ball more than once a week, and a day before or after a match day, including crossing, finishing and setpiece practices. In 2020, the SFA led the way in banning children under the age of 12 from heading balls in training amid similar brain damage concerns, making Scotland the first European country to do so. Last year, clubs in English football restricted footballers to 10 "higher-force" headers a week in training.

viii. British Cycling chief resigns after fierce backlash to Shell sponsorship deal and trans row⁸

British Cycling announced the departure of its chief executive officer, Brian Facer, following the furious backlash against its partnership with Shell. The governing body had announced a new eight-year deal with the oil giants. The announcement of the new deal was met with immediate and intense backlash from the general public, with environmental groups Greenpeace and Friends of the Earth condemning the partnership as "brazen sportswashing". In April 2022, British Cycling had suspended its policy on trans and non-binary cyclists competing in events after the International Cycling Union (UCI) barred trans athlete Emily Bridges from competing in a national women's race, who was claimed to have had an unfair advantage in the female category. British Cycling had acknowledged that its transgender policy, which was ratified in January 2022, did not match the guidance from the Sports Council Equality Group (SCEG).

B. INTEGRITY

ix. Banned British sprinter CJ Ujah cleared of deliberately taking drugs at Olympics⁹

The Athlete Integrity Unit (AIU) reported that British sprinter Chijindu Ujah (Athlete) had entered into a case resolution agreement with the AIU and the World Anti-Doping Agency (WADA) and shall be serving a ban for 22 (twenty-two) months. The Athlete acknowledged the Anti-Doping Rule Violation (ADRV) and was able to establish that the Adverse Analytical Finding (AAF) was a result of his ingestion of a contaminated supplement. The Athlete had provided a sample In-Competition



during the Tokyo 2020 Olympic Games which resulted in the AAF and was facing a four-year ban. The Court of Arbitration for Sport Anti-Doping Division had decided that the Athlete had committed the ADRV and disqualified Team Great Britain, together with the forfeiture of their medals, diplomas, points and prizes.

x. FIR against India's no. 1 badminton player, Lakshya Sen, for age fraud, cheating; Karnataka High Court stays further proceedings¹⁰

Lakshya Sen, his family and former national coach Vimal Kumar have been charged with cheating and age fraud in an FIR filed in Bengaluru. The FIR, lodged by M Goviappa Nagaraja, alleged that Sen, along with his brother Chirag, had fudged their age to get into playing age-group tournaments since 2010. Sen's parents, a coach with the Sports Authority of India and Vimal Kumar- coaching the duo for more than 10 years were also named in the FIR. The complainant runs a badminton academy in Bengaluru. The Karnataka HC has stayed criminal proceedings against Lakshya and his coach based on a petition filed by them. In the petition, the accused player and his coach claimed that the case had been lodged to humiliate them. The charges were made up in revenge as the complainant's daughter had been turned away from Prakash Padukone's training academy two years ago. The petition also contended that the issue of age fabrication had been closed in 2018 as the Central Vigilance Commission had accepted the birth records and concluded that no action was required against him.

xi. Emirates-based player gets 14-year ban for attempted match-fixing¹¹

Mehar Chhayakar, a cricketer based in the UAE, has been banned from all cricket for 14 years after an ICC (International Cricket Council) Anti-Corruption Tribunal found him guilty of seven breaches of the ICC and Cricket Canada Anti-Corruption Codes. He was found guilty of attempting to influence Zimbabwe v UAE series in April 2019 and matches in the Global T20 in Canada in 2019. The ICC Anti-Corruption Unit (ACU) had also charged the cricketer for failing to cooperate and obstructing the ACU's investigation.

xii. Two French tennis players handed lifetime bans for match fixing 12

The International Tennis Integrity Agency (ITIA) announced that French players Mick Lescure (29) and Jules Okala (25) have been given life bans from tennis after investigations into multiple incidents of match-fixing since 2014. Lescure who had a highest ATP ranking of 487, was found guilty of eight charges and fined \$40,000 by the ITIA and Okala who had a highest ATP ranking of 338, was found guilty of seven charges and fined \$15,000. The cases were ruled on by independent Anti-Corruption Hearing Officer Charles Hollander KC and the sanctions mean that both players are permanently prohibited from playing in or attending any tennis event sanctioned by the governing bodies of tennis. The independent ITIA - established by tennis' international governing bodies to oversee integrity matters - said that both players have been part of wider law enforcement investigations in France and Belgium.

C. OTHERS

xiii. Hans Niemann files \$100 million lawsuit against Magnus Carlsen; motion to dismiss lawsuit filed¹³

US chess grandmaster, Hans Niemann, filed a federal lawsuit, a month after being accused of cheating by Magnus Carlsen, Chess.com and others. The lawsuit, which seeks no less than \$100 million (£89m), was filed in the Eastern Missouri District Court. It accuses the defendants of libel, slander and unlawful boycott and tortious interference of Niemann's business. Niemann has previously admitted to cheating when playing online chess when he was 12 and 16 but has denied ever cheating over the board. Niemann, 19, accuses Carlsen of launching a smear campaign against him in collaboration with Carlsen's online chess company Play Magnus, and Chess.com, which has agreed to buy Play Magnus. A motion to dismiss the lawsuit was filed by the defendants stating the Neimann's claims are without merit, arguing that he has not disproved the cheating allegations or offered evidence to back up his conspiracy assertion.



xiv. 'Criminal assault': report's verdict on police treatment of fans at Champions League final¹⁴

An independent inquiry into the events that preceded the UEFA Champions League final in Paris in May has found that Liverpool supporters were subjected to treatment that "constituted criminal assault". The inquiry was led by Prof. Phil Scraton, who was a senior figure on the Hillsborough Independent Panel. The new report concluded that "those organising and administering the event" were responsible for a "collapse in authority, management and safety" which avoided tragedy only because of preventative actions taken by fans. Fans were constrained, corralled, assaulted and exposed to teargas by French police as they attempted to enter the Stade de France. UEFA has apologised to fans of Liverpool and Real Madrid, and French authorities have admitted to making errors on the night.

xv. Red Bull fined \$7 million for overspending by Fédération Internationale de l'Automobile (FIA)¹⁵

FIA has ordered Red Bull to pay a \$7 million fine and forfeit wind tunnel time as punishment for exceeding the 2021 cost cap by \$1.8 million during Max Verstappen's first championship season.

The penalties announced at the Mexico City Grand Prix are unlikely to satisfy Red Bull rivals, many of whom called for more harsh penalties ranging from stripping Verstappen of last year's title, a reduction in future Red Bull spending, and any punishment that would hurt the team in-competition. The FIA and Red Bull came to terms on a monetary fine and a reduction of only 10% of its allotted time in the wind tunnel in 2023. Red Bull accepted guilt in the FIA penalty notice, but the governing body noted "there is no accusation or evidence that RBR has sought at any time to act in bad faith, dishonestly or in a fraudulent manner, nor has it wilfully concealed any information from the Cost Cap Administration." Red Bull, though, explained it as a clerical error and misinterpretation of how to apply the costs in certain areas, among them: catering services, social security contributions,

travel costs and how they handled unused parts. The cost cap was put in place as a competition equalizer to prevent the larger, heavily-funded teams from outspending the smaller organizations struggling to keep up.

2. GAMING LAW AND ESPORTS UPDATES

i. State cabinet of Meghalaya passes ordinance to repeal Meghalaya Regulation of Gaming Act, 2021¹⁶

passed Meghalaya the contentious Meghalaya Regulation of Gaming Act, 2021 last year in an effort to boost tourism within the state by allowing legal operation of casinos. However, the legislation had since encountered fierce opposition. Meghalaya's state government has since decided to officially take down the legislation by passing an ordinance in November 2022. The main protests were seen from the Joint Action Committee Against Casino and the Khasi Jaintia Christian Leaders Forum and the decision to repeal the statute was taken after a meeting with church leaders.

ii. Supreme Court of India dismisses review petition seeking reconsideration of decision labelling fantasy games such as Dream11 as "games of skill" ¹⁷

Having dismissed the original appeal more than three years ago, the Supreme Court has quashed Varun Gumber's review petition related to the 2017 Punjab & Haryana High Court judgement ruling fantasy sports to be a game of skill. Dismissing the appeal, the court held that the review petition was filed with an inordinate delay without any reasons and even on merits the order of which review has been sought does not suffer from any error warranting its reconsideration. This dismissal only affirms the settled position that fantasy sports are games of skill.

iii. Delhi High Court issues permanent injunction in favour of Dream11 in 'dream11. bet' case¹⁸

Sporta Technologies Private Limited, the parent company of fantasy sports gaming application Dream11, had filed a suit against "dream11.bet" for using Dream11 as a domain name. Justice Navin Chawla stated that the defendant's domain name



is confusingly similar to the plaintiffs' and is obviously intended to capitalize on the goodwill and reputation of their marks. An official court statement stated, "The adoption of the domain name 'www. dream11.bet' is a clear case of infringement of the marks of the plaintiffs and amounts to passing off the services of the defendant as that of the plaintiff's." The website was using the dream11.bet domain as a gambling website and was taking bets by collecting user information and even had a YouTube channel. In the lawsuit brought by Sporta Technologies in 2020, the plaintiff requested a permanent injunction prohibiting the defendant from using the word "Dream11" in the domain name or in any other way that can be considered an infringement or passing off of the plaintiff's trademarks. The suit was decreed in favour of the plaintiffs and permanent injunction was granted.

iv. Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Ordinance lapsed¹⁹

The Governor of Tamil Nadu, R. N. Ravi, has not given his assent to the Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Bill yet. Resultantly, the Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Ordinance stands expired as on November 28, 2022. The state government received assent for the ordinance outlawing online gaming on October 1, 2022 and the Ordinance was due to expire within six weeks after the start of the previous assembly session in accordance with article 213 (2) (a) of the Constitution and November 27 marked the final date of the six-week period for the ordinance. The state law minister, S Regupathy, stated that the bill to replace the ordinance is legally sound and within the parameters of the constitution. However, the Governor has still expressed his concerns over the constitutional legitimacy of the bill given that a bill of a similar nature was overturned by the Madras High Court previously.

v. Rajasthan draft online gaming regulation framed and pending before appropriate authority²⁰

The Rajasthan Government has informed the Rajasthan High Court that it has drafted legislation to curb the menace of online gambling and betting and the matter is presently pending before the appropriate authority. The submission was made when the Rajasthan High Court sought the state government's response to a PIL seeking direction to curb the menace of online betting and gambling. The draft, namely the Rajasthan Virtual Online Sports (Regulation) Bill includes provisions for a Virtual Online Sports Commission to be set up to regulate online gaming activities in the state, establishes a license regime and also specifies penalties for offenders. Noting the submission of the government, the High Court disposed of the plea by making it open for the State to consider the matter. Notably, the Esports Federation of India had earlier raised questions on the inclusion of esports and clubbing it with fantasy sports in the bill, labelling it as detrimental to the growth of esports in India.

vi. Telangana govt files petition for transferring Telangana Gaming Amendment Act challenge directly in apex court²¹

The constitutional challenge to the Telangana Gaming Amendment Act, 2017 was heard on Tuesday in the High Court of Telangana. The State Government informed the bench that it has filed a transfer petition to the Supreme Court to tag it along with appeals by the state governments of Tamil Nadu and Karnataka, as similar laws were held to be unconstitutional by the High Courts of Madras and Karnataka promoting appeals by the respective State Governments. The petitioners however, requested that the matter be taken up at least for interim relief as similar laws have been struck down by Karnataka and Madras High Courts and at present they are unable to do business in Telangana. The High Court said that it may consider matter for interim relief on 31st January 2023 if the state government does not show any progress in the case before the Supreme Court.

vii. Indian government plans to regulate all real-money games²²

The government plans for India's proposed central regulation of online gaming to cover



all real-money games as the prime minister's office rejected a proposal to merely regulate games of skill and exclude games of chance. In August, an Indian panel tasked with drafting the regulation proposed creating a new body to determine whether a game involves skill or chance. Subsequently, skill games would be governed by central rules that include registration requirements, know-your-customer standards, and a grievance redress mechanism. Games of chance, which are generally prohibited in India, were planned to remain under the control of the individual state governments, who would be free to regulate them. However, taking into consideration the lack of legal clarity and conflicting court rulings, determining whether a game is one of skill or chance isn't always easy and thereby the current proposal offers that online gaming may be considered as one activity/service with no distinction. According to reports, the rules will give the central government greater control over all game types while still retaining state governments' authority to outrightly prohibit gambling or games of chance.

viii. Pokerbaazi drags ASCI to Court for advertisement takedown by YouTube²³

Technologies, Moonshine the parent entity of poker platform Pokerbaazi has approached the Delhi High Court seeking permanent injunction against certain directions by advertising self-regulatory body ASCI. The issue pertains to a poker YouTube campaign by Bollywood star Shahid Kapoor wherein he was shown roaming the streets playing a game of poker on his mobile phone and ignoring his surroundings. ASCI concluded that the advertisement promotes unsafe/dangerous activities and encourages negligence. Pokerbaazi stated that YouTube has taken down the advertisement basis this direction from ASCI. The YouTube advertisement allegedly contravened Chapter III, 3.3 of the ASCI Code. Counsel appearing on behalf of ASCI informed the Court that the communication was only a non-binding recommendation. Delhi HC opined that the ASCI directions cannot be read in a manner to infer that Google LLC has taken down the advertisement on account of the communication received from ASCI. Noting that Pokerbaazi has an option of seeking a review of ASCI recommendations, the Court refused to pass any interim orders.

ix. Cabinet secretariat brings online gaming and esports under the ambit of MEITY and MYAS respectively ²⁴

According to a Gazette notification dated 23rd December 2022, amendments to the Government of India (Allocation of Business) (Three Hundred and Seventieth Amendment) Rules, 2022 have been implemented. The amendments "Matters relating to online gaming" under the ambit of Ministry of Electronics and Information Technology and "e-Sports as part of multi-sports events" under the ambit of the Ministry of Youth Affairs and Sports. Along with the amendment, the Ministry of Electronics and Information Technology is also expected to issue rules governing the online gaming sector soon. The exact nature of the upcoming rules has not been revealed yet and it remains to be seen whether the rules will override the powers of state legislatures to define and ban online gaming, including games of skill or only provide broad guidelines for gaming companies.

x. MeitY invites feedback on the draft amendments to the IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (Draft Rules) in relation to online gaming, expected to release final rules by February²⁵

Having been appointed the nodal ministry for matters related to online gaming, MeitY, in the first week of January, 2023 has released the Draft Rules for online gaming. The Draft Rules lists out due diligence to be observed by online gaming intermediaries, moreover, it mandates that all online games (as defined) need to be registered with the self-regulating body (envisaged to be formed under the proposed amendment), it also mandates that the self-regulating body be registered with MeitY and also provides for a grievance redressal mechanism among other things. The Draft Rules are released to invite the public comments which were initially to be shared by January 17th, 2023, but the deadline was later extended to January 25th,



2023, with the final rules expected to be released by February, 2023.

xi. Esports will not be a medal event in the 2026 Commonwealth Games.²⁶

Esports, which was a pilot event at the 2022 Commonwealth Games, will not feature in the 2026 edition of the Games, to be held in Victoria, Australia. Despite having been labelled a success, with the president of the Commonwealth Games Federation saying she expected it to be included "going forward", the organisers for the 2026 Games felt differently. Reports on the discussions suggested that doping in esports may have been a factor with concerns having arisen about year-round drugs testing across the various gaming titles possibly proving problematic.

3. DIGITAL ASSETS UPDATES

xii. Virat Kohli announces entry into the metaverse²⁷

Virat Kohli announced entering into the world of metaverse, where he will launch his personal digital collectibles. The ace cricketer teamed up with FanCraze, a Web 3.0 company, where his fans can own and collect the player cards & play cricket games to win big prizes. FanCraze boasts of a solid partner list, which includes Rohit Sharma, Shikhar Dhawan, Jasprit Bumrah, Hardik Pandya and many more.

xiii. FIFA launched metaverse games ahead of World Cup in Qatar²⁸

The governing body football, FIFA, teamed up with blockchain-powered video game companies Uplandme, Matchday, Phygtl, and Altered State Machine to launch four metaverse games ahead of the World Cup in Qatar. In a November 10 press release, FIFA confirmed launching of four blockchain-powered games. The announcement came just a few weeks before the World Cup in Qatar starts.

xiv. Cristiano Ronaldo launches first NFT with Binance²⁹

As part of the exclusive, multi-year partnership with Binance, the world's leading blockchain ecosystem and cryptocurrency infrastructure provider, the footballer launched his first Non- Fungible

Tokens (NFTs) in November 2022. The launch was supported by a global marketing campaign featuring Ronaldo, aiming to give his fans an introduction to Web3 through the world of NFTs. The collection featured seven animated statues with each NFT statue depicting Ronaldo in an iconic moment from his life, from bicycle kicks to his childhood in Portugal.

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