

Online Gaming: - Threat To India's Cyber Laws

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Introduction

Games, whether real or virtual never fail to fascinate people of all ages. The internet has introduced the concept of online games. A recent study by KPMG India and Google dated May 2017, suggests that the Indian online gaming industry is set to become a USD 1 billion industry by 2021². Online games like online poker, online rummy, online card games, etc are increasingly becoming popular in India. However, the regulatory environment for these online games is still in a state of mess³. Recent trends prove just how attractive the gaming community has become for cybercriminals and how lucrative the game-hacking business is becoming, which underlines the importance for developers, manufacturers and gamers alike to take game security more seriously⁴. This paper studies how online gaming poses a threat to India's cyber law regime through a discussion of what online gaming entails, case examples of the Blue Whale and Momo Challenge ultimately proposing the need for an online gaming legislation in India.

Online Gaming: A Vulnerable Field

Online gaming is one of the easiest ways to make money. Criminals are targeting this new and lucrative market, which they now use for the crimes like hacking banks and Internet retailers. Such crimes threaten the online financial market. In-video game attacks occur when a player's account is hijacked using readily available malware that enables man-in-the-middle exploits, keylogging, remote access, and other hacks⁵. Once any account gets hijacked any

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²Online Gaming in India: Reaching a New Pinnacle, A Study by KPMG in India and Google, <https://assets.kpmg.com/content/dam/kpmg/in/pdf/2017/05/online-gaming.pdf>

³Praveen Dalal, Indian Online Rummy and Online Pokar website in Legal Tangles, Global Techno Legal News and Views, (August 16 2015), <http://perry4law.co.in/news/?p=142>.

⁴Ben Dick, The gaming industry can become the next target of Cybercrime, (2015), <https://techcrunch.com/2016/06/08/the-gaming-industry-can-become-the-next-big-target-of-cybercrime/>.

⁵Matthew Cook, Why online Video gaming is the next industry under cyber attack?, Dark Reading (March 5 2016, 10:30 AM), <https://www.darkreading.com/vulnerabilities---threats/why-online-video-gaming-will-be-the-next-industry-under-cyber-attack-/a/d-id/1325519>.

cybercriminal can steal the credentials of the account holder and sell those in the 'Grey Market'.⁶

The Internet-based grey marketer could be based in the U.S. and buying products in foreign countries for reselling in the U.S.; or he could be based in a foreign country and buying products at low local prices and then reaching out to U.S. consumers via its website. In the latter case, the retailer may even be authorized by the manufacturer to sell in its local market, but may take advantage of the Internet to expand into unauthorized foreign territory. The legal contract with the manufacturer forbids such diversion, but the manufacturer would find it difficult to monitor the unauthorized selling, particularly when the retailer can easily set up a dummy firm and Website to conduct Internet sales⁷.

Steam, one of the world's largest online video game platforms, admitted that 77,000 of its gamer accounts are hacked every month. This revelation represented the first time that a major video game company acknowledged cybercrime⁸.

Blue Whale Challenge: A challenge to India's Cyber Laws

Cybercrime is not only confined to the stealing of personal information but has also extended its wing so far as to make an individual commit suicide. One of the most notable contemporary sinister online game is the Blue Whale Challenge. The Blue Whale Challenge is believed to be a suicide game wherein a group of administrators or a certain curator gives a participant a task to complete daily for a period of 50 days, the final of which requires the participant to commit suicide. Participants are expected to share photos of the challenges/tasks completed by them. These daily tasks start off easy such as listening to certain genres of music, waking up at odd hours, watching a horror movie, among others and then slowly escalate to carving out shapes on one's skin, self-mutilation and eventually suicide.⁹ Cyber experts believe that Blue Whale is not just another game easily downloadable from Playstore or any other app store and that it is, in fact, a community that has been inciting teenagers across the globe to commit suicide. The controllers of the Challenge are connected with each other through different chat rooms and contact teenagers with specific interests via social media platforms, luring them to

⁶ Ibid.

⁷ Soumava Bandyopadhyay, The Internet and Grey Marketing, International Business & Economics Research Journal Vol. IX June (2010).

⁸ Security and Trading, Steam, <https://store.steampowered.com/news/19618/>.

⁹ Express Web Desk, What is blue whale Challenge?, The Indian Express (October 21, 2017 8:39:42 am), <https://indianexpress.com/article/what-is/what-is-the-blue-whale-challenge/>.

play the game¹⁰. People had to move the High Court of India to make such a game illegal¹¹. The court ordered to block all URLs but it is very easy for the expert cybercriminals to create a duplicate one. So even now, the existence of this game is still in question, despite illegalizing it. Also, a new sister game of the Blue Whale has arrived in India i.e. Momo challenge¹². Thus, the cyber laws of India are not sufficient enough to fight from this sort of challenge due to non-availability of online gaming regulations.

Online Gaming Regulations In India

There are no central or state online gaming rules. Sikkim is so far the only state in India which has enacted a statute pertaining to online gaming i.e. Sikkim Online Gaming (Regulation) Act, 2008 ("Sikkim Gaming Act"). In terms of the Sikkim Gaming Act, an interested person can obtain a "license" for the purpose of conducting online games¹³. The Indian legislature and courts are still busy interpreting the question of gambling laws; this concern has completely overshadowed the gaming law. Some of the online games like online poker has been accepted as a game of luck and thus illegal in states which do not legalize it.

Conclusion

Internet usage is ubiquitous. The concept of online gaming is super popular today. However, the non-availability of any online gaming rules has made gaming unsecure and shady. Owing to this, some lethal online games like the Blue Whale challenge and Momo challenge have percolated in the Indian territory. Comparing our situation with other countries like the USA and UK which have online gaming legislations, India is lagging behind. The question that begs an answer is why India does not have any online gaming legislation, despite having

¹⁰Asif Rizvi, Why Blue Whale cannot be banned despite the CM Fadnavis Assurance, Mid-day.com (August 3 2017 8:33 AM), <https://www.mid-day.com/articles/mumbai-news-blue-whale-game-death-suicide-manpreet-sahans-cm-devendra-fadnavis-andheri-teen/18475174>.

¹¹Express Web Desk, Blue whale challenge: SC wants Doordarshan to air programme; this is what other courts have orders, The Indian Express (October 27, 2017 11:17:15 pm), <https://indianexpress.com/article/india/blue-whale-challenge-supreme-court-wants-dd-to-air-programme-this-is-what-other-courts-have-ordered-4908861/>.

¹²Express Web Desk, What is Momo Challenge?, The Indian Express, (August 30, 2018 12:16:14 pm), <https://indianexpress.com/article/what-is/what-is-momo-challenge-5302916/>

¹³Vaish Associates Advocate, India: Online Gaming and Gambling Laws in India, Vaish Associates Advocates, (October 2014), <http://www.mondaq.com/india/x/350824/Gaming/ONLINE+GAMING+AND+GAMBLING+LAWS+IN+INDIA>.

more internet users than the above-mentioned countries. Therefore, it is a techno legal requirement to have a central gaming legislation.

