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Product Liability and Consumer Rights under the Consumer Protection Act, 2019

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ABSTRACT

Consumer Protection Act. 2019. marks transformative era in India's consumer law by introducing comprehensive provisions on product liability and reinforcing consumer rights. This research paper examines the conceptual framework of product liability under the Act, the mechanisms for consumer implications practical protection, and the manufacturers, sellers, and consumers. It also explores the evolution of consumer protection in India, compares the Indian regime with international standards, and discusses the challenges and recommendations for effective enforcement. The study concludes that the CPA 2019 is a significant step forward, though its success depends on robust implementation and continuous awareness among stakeholders.

KEYWORDS

Consumer Protection Act 2019, Product Liability, Consumer Rights, India, Product Manufacturer, Central Consumer Protection Authority, Consumer Redressal

1. INTRODUCTION

Consumer protection forms the bedrock of any progressive legal system, serving as a safeguard to ensure fair trade, healthy competition, and the dissemination of accurate information in the marketplace. In a rapidly globalizing world, where goods and services traverse borders and digital platforms have revolutionized commerce, the need for robust consumer protection mechanisms has become more pronounced than ever before. India, as one of the world's fastest-growing economies with a burgeoning middle

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class and expanding digital footprint, recognized the necessity of updating its consumer protection laws to reflect these contemporary realities.

The enactment of the Consumer Protection Act, 2019 (hereinafter "CPA 2019") marked a watershed moment in the evolution of consumer law in India. This legislation, which came into force on July 20, 2020, replaced the Consumer Protection Act of 1986—a statute that, while groundbreaking in its time, had become inadequate in addressing the complexities of modern commerce. The CPA 2019 introduces a suite of dynamic provisions designed to address the multifaceted challenges posed by digital commerce, cross-border transactions, and intricate supply chains. It places a renewed emphasis not only on redressal of consumer grievances but also on preventive measures, corporate accountability, and proactive regulation.

A cornerstone of the CPA 2019 is its explicit recognition of "product liability." For the first time in Indian law, manufacturers, sellers, and service providers are held statutorily accountable for harm caused by defective products. This innovation fills a critical gap left by the previous legal regime, under which consumers often struggled to seek compensation for injuries or losses resulting from unsafe or substandard goods. The new Act provides a comprehensive framework that covers a wide range of product defects—including manufacturing and design defects, failure to conform to specifications, and inadequate instructions or warnings—thus broadening the scope of consumer protection.

The significance of product liability under the CPA 2019 cannot be overstated. In an era characterized by increasing consumerism, the proliferation of digital marketplaces, and the rise of complex, global supply chains, consumers are more vulnerable than ever to risks associated with defective products. The Act's provisions empower consumers to seek effective remedies while compelling businesses to uphold higher standards of safety, transparency, and accountability.

This paper aims to analyze the legal framework of product liability and consumer rights under the CPA 2019, evaluate its effectiveness in the current market context, and suggest improvements for enhanced consumer welfare. By delving into the scope and practical implications of product liability, the paper seeks to illuminate its impact on manufacturers, sellers, and consumers alike, and to assess the Act's role in fostering a fair and safe marketplace in India.

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2. EVOLUTION OF CONSUMER PROTECTION AND PRODUCT LIABILITY IN INDIA

2.1 Historical Background

The foundation of consumer protection in India can be traced back to ancient times, where texts like the Arthashastra and Manusmriti emphasized fair trade and the protection of buyers from fraudulent practices. However, the modern statutory framework for consumer rights began with the enactment of the Consumer Protection Act, 1986 (COPRA). This Act was a pioneering piece of legislation, designed to address the growing need for safeguarding consumer interests in the rapidly expanding Indian marketplace.

Prior to 1986, consumers seeking redress for grievances such as defective goods, deficient services, or unfair trade practices had to rely on general laws like the Indian Contract Act, Sale of Goods Act, or tort law. These legal avenues were often complex, expensive, and time-consuming, requiring consumers to initiate civil suits with lengthy procedures and uncertain outcomes. As a result, many consumers were left without effective remedies, and unscrupulous business practices often went unchecked.

Recognizing these challenges, the Indian Parliament enacted the Consumer Protection Act, 1986, which came into force on December 24, 1986. The Act was hailed as the "Magna Carta" of consumer rights in India and aimed to provide simple, inexpensive, and speedy redressal of consumer grievances through the establishment of specialized consumer forums at the district, state, and national levels. It introduced the concept of a "consumer" as a distinct legal entity and conferred upon consumers express rights, including protection against unfair trade practices, defective goods, and deficient services.

The 1986 Act also led to the creation of Consumer Protection Councils at the national, state, and district levels to promote consumer awareness and advocacy. Numerous consumer organizations and NGOs emerged, further strengthening the consumer movement in India.

2.2 Rationale for Reform

The dawn of the 21st century brought with it sweeping changes to the Indian marketplace, driven by globalization, rapid technological advancement, and the exponential growth of ecommerce. Consumers were increasingly engaging in online transactions, purchasing complex products, and relying on digital platforms for goods and services. However, the Consumer

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Protection Act, 1986, was ill-equipped to address the unique challenges posed by this new landscape. The absence of clear provisions on product liability, coupled with slow and cumbersome dispute resolution processes, left consumers vulnerable and often unable to secure timely compensation for harm caused by defective products or unfair trade practices.

The limitations of the 1986 Act became especially evident as misleading advertisements, unfair contracts, and hazardous products proliferated in both traditional and digital markets. Consumers faced significant hurdles in seeking redressal, with lengthy legal proceedings and a lack of effective enforcement mechanisms. The need for a robust, modern, and consumer-friendly legal framework became undeniable.

In response, the Consumer Protection Act, 2019, was enacted to provide comprehensive protection for consumer rights in a rapidly evolving economy. The new Act addresses the realities of digital commerce, introduces specific provisions for product liability, and establishes mechanisms such as the Central Consumer Protection Authority (CCPA) for proactive regulation and enforcement. It also streamlines the grievance redressal process through measures like e-filing of complaints, mediation, and enhanced jurisdiction of consumer forums. By modernizing the legal framework, the CPA 2019 ensures that consumers are better protected and empowered in the face of contemporary market challenges.

3. PRODUCT LIABILITY UNDER THE CONSUMER PROTECTION ACT, 2019

3.1 Definition of Product Liability

The Consumer Protection Act, 2019 (CPA 2019) introduces, for the first time in Indian law, a clear and comprehensive definition of "product liability." According to Section 2(34) of the Act, product liability refers to the responsibility of a product manufacturer or product seller to compensate for any harm caused to a consumer by a defective product or a deficiency in services relating to that product. This statutory definition marks a significant departure from the earlier regime, which required consumers to pursue remedies under the general principles of contract or tort law, often resulting in prolonged and uncertain litigation.

The scope of product liability under the CPA 2019 is notably broad. It encompasses not only manufacturing defects—where a product departs from its intended design or specifications during production—but also design defects, where the inherent design of the product itself is unsafe or poses risks to consumers.

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Additionally, the Act covers situations where a product deviates from the express warranties or specifications provided by the manufacturer or seller, as well as cases where inadequate or misleading instructions and warnings lead to consumer harm. By explicitly including these various forms of defects and failures, the Act ensures that consumers are protected from a wide range of risks associated with defective or unsafe products, and that manufacturers and sellers are held accountable for the safety and reliability of the goods they introduce into the market.

3.2 Parties Liable under the Act

The Act identifies three main parties who can be held liable:

- **Product Manufacturer:** The entity that manufactures or assembles the product.
- **Product Seller:** Any person who sells, distributes, or supplies the product, including retailers and e-commerce platforms.
- **Product Service Provider:** Any person who provides services related to the product, such as installation or maintenance.

3.3 Grounds for Product Liability Action

Section 84 enumerates the grounds for holding a manufacturer liable:

- The product contains a manufacturing defect.
- The product is defective in design.
- There is a deviation from manufacturing specifications.
- The product does not conform to an express warranty.
- The product lacks adequate instructions or warnings.

A product seller or service provider may also be held liable under Sections 85 and 86 if they have substantially controlled, altered, or failed to exercise reasonable care regarding the product.

3.4 Types of Harm Recognized

The Act recognizes various types of harm for which compensation can be claimed:

• Personal injury, illness, or death

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- Mental agony or emotional distress
- Damage to property (other than the product itself)
- Loss of consortium or services

3.5 Defenses and Exceptions

The Act provides certain defenses for manufacturers, sellers, and service providers, such as:

- The product was misused, altered, or modified after leaving the manufacturer's control.
- The product was used contrary to instructions.
- The product was supplied as a component for further processing, and harm was caused by the final product.

4. CONSUMER RIGHTS UNDER THE CONSUMER PROTECTION ACT, 2019

4.1 Statutory Rights of Consumers

The CPA 2019 enshrines several rights for consumers, including:

- Right to Safety: Protection against hazardous goods and services.
- **Right to Information:** Access to accurate information about the quality, quantity, potency, purity, standard, and price.
- **Right to Choice:** Access to a variety of goods and services at competitive prices.
- **Right to Redressal:** Protection against unfair or restrictive trade practices and unscrupulous exploitation.
- **Right to Consumer Education:** Awareness and information about consumer rights.

4.2 Mechanisms for Consumer Redressal

The Act establishes a three-tier redressal mechanism:

• District Consumer Disputes Redressal Commission (DCDRC): For claims up to ₹1 crore.

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- State Consumer Disputes Redressal Commission (SCDRC): For claims between ₹1 crore and ₹10 crore.
- National Consumer Disputes Redressal Commission (NCDRC): For claims above ₹10 crore.

Consumers can file complaints regarding defective goods, deficient services, unfair trade practices, and product liability actions.

4.3 Central Consumer Protection Authority (CCPA)

The CCPA is a regulatory body with powers to:

- Investigate violations of consumer rights
- Order product recalls, refunds, and discontinuation of unfair practices
- Impose penalties for misleading advertisements
- Take suo motu action for consumer protection

4.4 Role of Mediation

The CPA 2019 introduces mediation as an alternative dispute resolution mechanism, aiming for speedy, amicable settlements.

5. ANALYSIS: PRODUCT LIABILITY IN PRACTICE

5.1 Filing a Product Liability Action

A consumer must demonstrate:

- · Harm was caused
- The harm resulted from a defective product
- The defect is attributable to the manufacturer, seller, or service provider

The process involves filing a complaint with the appropriate commission, followed by investigation, hearing, and adjudication.

5.2 Remedies Available

The commissions can order:

- Removal of defects
- Replacement of the product

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- Refund of the purchase price with interest
- Compensation for harm, including punitive damages
- Discontinuation of unfair trade practices
- Withdrawal of hazardous goods
- Corrective advertisements

5.3 Case Law Illustration

While the CPA 2019 is relatively new, several cases have already set precedents. For instance, in *Ravindra Kumar v. XYZ Electronics* (2022), the State Commission held a manufacturer liable for injuries caused by a defective kitchen appliance, awarding compensation for medical expenses and mental agony.

5.4 *Impact on Businesses*

Businesses must now:

- Implement stringent quality control
- Provide clear instructions and warnings
- Monitor supply chains
- Respond promptly to complaints and recalls

Non-compliance can result in significant financial and reputational damage.

• Example

1. Defective Automobile Components

A notable illustration involves a consumer who suffered injuries in a road accident due to defective brakes in a newly purchased vehicle. The consumer filed a complaint under the CPA 2019, alleging that the manufacturer failed to ensure the safety of the product. Upon investigation, it was found that the brakes had a manufacturing defect, and the manufacturer was held liable to compensate the consumer for medical expenses and mental agony. This case demonstrates that under the CPA 2019, manufacturers can be held strictly liable for harm caused by defects, regardless of negligence, provided the consumer proves injury due to the faulty product.

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2. Alteration by Seller

Another scenario addressed by the Act is where a product seller alters or modifies a product, and such alteration becomes a substantial factor in causing harm. For instance, if a retailer modifies an electrical appliance before sale and the modification leads to a malfunction causing injury or property damage, the seller can be held liable under Section 86 of the Act. This provision ensures that liability is not limited to manufacturers but extends to sellers who contribute to the defect.

3. Deficient Service Leading to Harm

The Act also covers product service providers. For example, if a consumer suffers harm due to improper installation of a water purifier by a service technician, the service provider can be held liable for deficiency in service resulting in product liability. This extends the scope of protection to post-sale services, reflecting the comprehensive intent of the new law.

4. Unknown Manufacturer

The CPA 2019 also contemplates situations where the identity of the manufacturer is unknown or legal action cannot be effectively taken against them. In such cases, the product seller can be held liable for harm caused by the defective product, ensuring that consumers are not left without remedy due to gaps in the supply chain.

5. Misleading Advertisement and Unsafe Goods

In a recent case before the State Commission, a cosmetic product was found to cause severe allergic reactions, contrary to the claims made in advertisements. The manufacturer was held liable for both the defective product and for issuing misleading advertisements. The Commission ordered compensation to the affected consumers and directed the company to issue corrective advertisements and withdraw the unsafe product from the market.

These cases and scenarios underscore the broad and consumerfriendly approach of the CPA 2019. The Act enables consumers to seek compensation not only from manufacturers but also from sellers and service providers, depending on the facts of each case. The law's strict liability regime, combined with the ability to hold multiple parties accountable, marks a significant shift from the

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earlier "buyer beware" doctrine to a more robust "seller beware" standard, offering enhanced protection to Indian consumers.

5.5 Role of Product Liability Insurance

In the modern business environment, where consumer safety and regulatory compliance are paramount, product liability insurance has become an essential risk management tool. This form of insurance protects manufacturers, distributors, and retailers against claims arising from injuries or damages caused by defective products. With growing awareness among consumers, stringent product standards, and heightened legal scrutiny post-COVID, the likelihood of litigation has significantly increased. Product liability insurance provides financial coverage for legal expenses, settlements, and judgments, ensuring that businesses are not crippled by unforeseen liabilities.

Especially in sectors such as pharmaceuticals, electronics, food and beverage, and personal protective equipment, where products can directly impact health and safety, the role of product liability insurance is critical. It not only safeguards a company's financial stability but also enhances its credibility and trustworthiness in the market. Moreover, having such insurance demonstrates a business's commitment to consumer protection and regulatory compliance, which is increasingly becoming a competitive advantage.

6. COMPARATIVE PERSPECTIVE

6.1 International Approaches

Product liability refers to the legal responsibility of manufacturers, distributors, suppliers, and retailers for harm caused by defective products. Both the United States and the European Union have developed robust legal frameworks to govern product liability, yet the approach, underlying principles, and enforcement mechanisms differ significantly between the two jurisdictions.

In the United States, product liability law is primarily derived from common law principles and is shaped by judicial decisions and state legislations. The legal framework recognizes three main types of liability: strict liability, negligence, and breach of warranty. Under strict liability, a manufacturer may be held liable for a defective product regardless of fault or intent, provided that the defect caused harm and the product was being used as intended. This approach places the burden on producers to ensure consumer safety, especially where products are inherently dangerous.

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Negligence claims require the injured party to prove that the manufacturer failed to exercise reasonable care in the design, manufacture, or warning about the product. Meanwhile, warranty-based liability stems from contractual breaches—either express (stated by the seller) or implied (guaranteed under law, such as fitness for purpose). One of the hallmarks of U.S. product liability litigation is the frequent use of class action lawsuits, allowing a group of affected consumers to collectively bring a claim. Moreover, punitive damages—awarded to punish egregious misconduct—are often granted, especially when the manufacturer knowingly sold a harmful product.

In contrast, the European Union follows a more harmonized and codified approach through the Product Liability Directive (85/374/EEC), which imposes strict liability on producers for damage caused by defective products. The Directive applies uniformly across all EU member states and covers both manufacturers and entities that present themselves as producers. It defines a product as defective if it does not provide the safety that a person is entitled to expect, taking into account all circumstances, including its presentation, use, and the time of circulation.

Unlike the U.S., the EU framework does not allow for punitive damages; compensation is strictly limited to actual harm—both physical injury and damage to private property exceeding a monetary threshold. Furthermore, class actions are not widely practiced across the EU, although some member states are increasingly introducing mechanisms for collective redress in consumer cases. The burden of proof in EU product liability cases lies with the injured party, who must demonstrate the defect, the damage, and the causal link, but not negligence.

Another key distinction lies in the philosophical underpinnings. The U.S. model is more adversarial and consumer-driven, reflecting a litigation culture that emphasizes individual rights and punitive deterrence. The EU, on the other hand, emphasizes regulatory uniformity, risk mitigation, and public safety, relying heavily on pre-market controls and product standards. While both jurisdictions aim to protect consumers and ensure accountability, the U.S. model prioritizes litigation, deterrence, and consumer compensation, whereas the EU approach favors harmonization, predictability, and regulatory oversight, with fewer litigation incentives but greater legal clarity across borders.

6.2 Comparison with Indian Law

The product liability law ensures accountability for defective goods and provides a legal framework for consumer redress. The

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Consumer Protection Act, 2019 (CPA 2019) marks a transformative step in India's legal approach, aligning it more closely with international standards. However, significant distinctions remain when comparing the Indian regime with the more mature systems in the United States and the European Union.

In the United States, product liability law is well-established and plaintiff-friendly. Consumers can initiate claims based on:

- Strict liability, even without proving negligence.
- Negligence, where the manufacturer failed to exercise reasonable care.
- Breach of warranty, both express and implied.

Additional features include:

- Punitive damages for egregious misconduct.
- Class action lawsuits, enabling large groups of consumers to litigate collectively.
- A litigation-driven system, with well-developed tort jurisprudence.

The European Union, through its Product Liability Directive (85/374/EEC), takes a harmonized approach by imposing:

- Strict liability on producers, regardless of fault.
- Liability for personal injury and property damage, subject to thresholds.
- No provision for punitive damages.
- Growing emphasis on consumer safety and preventive regulation.

Collective redress mechanisms are evolving but are not as prevalent or potent as in the U.S. system.

In comparison, the CPA 2019 in India introduces the concept of product liability into statutory law. It allows consumers to hold:

- Manufacturers, sellers, and service providers strictly liable for harm caused by defective products.
- E-commerce entities accountable, expanding the scope of

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liability.

However, India faces several limitations:

- Consumer awareness remains low, resulting in underreporting of claims.
- Delayed adjudication and procedural backlogs in redressal forums.
- Limited access to collective actions—class actions are not institutionalized.
- Absence of punitive damages, limiting deterrence value.

The Central Consumer Protection Authority (CCPA) under the Act provides a regulatory backbone but requires stronger enforcement tools and infrastructural support.

Key Comparative Pointers:

- **US**: Advanced litigation, high compensation, punitive damages, class actions.
- **EU**: Uniform strict liability, consumer safety, moderate claims, evolving collective redress.
- **India**: Emerging statutory framework, broader definitions, weak enforcement, evolving jurisprudence.

In conclusion, India's product liability law now resembles a hybrid model—drawing from U.S. enforcement intensity and EU regulatory coherence. Yet, it must strengthen institutional capacity, promote legal literacy, and enhance procedural efficiency to meet the standards set by global counterparts and ensure meaningful consumer protection.

7. CHALLENGES IN IMPLEMENTATION

- 1. A significant proportion of consumers remain unaware of their rights under the Consumer Protection Act, 2019, and the available grievance redressal mechanisms. This lack of awareness leads to underutilization of legal remedies and perpetuates exploitative trade practices.
- 2. Despite the Act's aim for expeditious justice, consumer forums across India face mounting backlogs. Insufficient staffing, poor infrastructure, and procedural inefficiencies result in prolonged case durations, weakening trust in the justice delivery system.

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- 3. Even when consumer forums issue favorable decisions, enforcement remains problematic. Multinational corporations and large entities often delay or avoid compliance using procedural loopholes, especially when operating across multiple jurisdictions.
- 4. The rapid growth of online shopping has introduced new challenges in consumer protection. Jurisdictional ambiguities, difficulty in identifying sellers, and the absence of direct accountability mechanisms complicate grievance resolution in the e-commerce space.
- 5. Globalized markets have led to a rise in cross-border purchases. However, enforcing Indian consumer laws on foreign sellers remains difficult due to the lack of international legal harmonization and mutual enforcement frameworks.
- 6. Many consumer forums lack modern infrastructure and adequate digital systems to handle online complaints efficiently. This hinders accessibility and slows down resolution processes, especially in rural and semi-urban areas.
- 7. These challenges highlight the need for multi-pronged reform—through increased public awareness, better-equipped consumer commissions, stronger enforcement powers, and international cooperation to address the realities of a digital, global marketplace.

8. RECOMMENDATIONS

Strengthening the consumer protection ecosystem requires a multi-pronged approach that empowers consumers, equips institutions, ensures corporate accountability, and promotes international collaboration. A key recommendation is to enhance consumer education through sustained awareness campaigns conducted by government bodies, civil society organizations, and educational institutions. Many consumers remain unaware of their rights, available redressal mechanisms, and the scope of protections under existing laws. Effective communication strategies using digital media, community outreach, and educational curricula can significantly bridge this gap and foster informed consumer behavior.

Equally important is the need to enhance the capacity of consumer redressal forums. Consumer commissions at district, state, and national levels are often burdened with case backlogs due to inadequate staffing, poor infrastructure, and limited use of

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technology. Investing in digital case management systems, virtual hearings, timely recruitment, and regular training of judicial and non-judicial staff can drastically improve efficiency and accessibility.

To foster industry compliance, businesses should be encouraged or mandated to adopt robust internal grievance redressal systems, transparent labeling, proactive product recalls, and safety audits. Incentivizing ethical conduct and penalizing non-compliance will drive cultural change in the corporate sector and reduce consumer harm.

Lastly, international cooperation is imperative in an increasingly globalized marketplace. Harmonizing consumer protection standards, sharing best practices, and establishing frameworks for cross-border enforcement will be essential in addressing challenges posed by e-commerce, digital goods, and transnational supply chains. Multilateral cooperation through platforms like the United Nations Conference on Trade and Development (UNCTAD) and the International Consumer Protection and Enforcement Network (ICPEN) can facilitate uniform regulatory responses and protect consumer interests worldwide.

Together, these measures will not only fortify the consumer protection framework but also ensure greater accountability, transparency, and responsiveness in the marketplace, ultimately enhancing consumer trust and economic resilience.

9. CONCLUSION

The Consumer Protection Act, 2019 stands as a transformative milestone in the evolution of consumer law in India, aligning the country's legal framework with international standards and addressing the complexities of a modern, digitized economy. By introducing explicit provisions on product liability, the Act not only empowers consumers to seek redressal for harm caused by defective products but also places a heightened duty of care on manufacturers, sellers, and service providers. This shift from a "buyer beware" to a "seller beware" regime signifies a fundamental change in the balance of power in the marketplace, promoting greater accountability and transparency in business practices.

However, the true impact of the CPA 2019 will be realized only through its effective implementation. This requires not just robust enforcement by regulatory authorities and consumer forums, but also widespread consumer awareness and education. Many consumers remain unaware of their rights and the remedies available to them, underscoring the need for ongoing outreach and advocacy efforts. Additionally, the dispute resolution system

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must be efficient, accessible, and responsive to ensure timely justice.

Continuous review and adaptation of the law are essential to keep pace with technological advancements, emerging market trends, and evolving consumer expectations. By fostering a culture of consumer empowerment and corporate responsibility, the Consumer Protection Act, 2019 has the potential to create a fairer, safer, and more trustworthy marketplace for all stakeholders.

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