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Advancing Consumer Justice :

Navigating Product Safety in a Changing World

2024



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Ramkrishna Law Firm
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**Advancing Consumer Justice :
Navigating Product Safety in a Changing World**

EDITOR-IN-CHIEF

**MR. AKSHAY YADAV
MS. SAMRUDHEE SHAH**

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**Advancing Consumer Justice :
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FOREWORD



It is a privilege to reflect on this exceptional compilation, which addresses some of the most pressing issues in consumer protection today. This collection highlights the evolving challenges and opportunities within global markets, particularly as they relate to consumer safety, legal accountability, and sustainability. At its core, the work emphasizes the critical need for robust regulatory frameworks to protect consumers in an increasingly digital and globalized world. By addressing topics such as e-commerce, social media influence, environmental protection, and targeted advertising, this volume offers a holistic perspective on the complexities of modern consumer justice.

This book is a culmination of insightful discussions and groundbreaking research presented at the Protect and Serve: The 2024 International Conference on Product Safety and Consumer Advocacy held in September 2024. The conference served as a vibrant platform for experts, academics, and policymakers to exchange ideas and collaborate on actionable solutions for advancing consumer rights and product safety globally.

The rise of e-commerce has transformed traditional commerce, bringing accessibility and convenience while introducing new risks such as effectively tracking product safety, eliminate counterfeit products, disentangle ambiguous liability chains, and combat deceptive practices, as well as bringing more certainty to consumers with applicable law and jurisdiction. Exploring these challenges reveals the need for legal and policy reforms that prioritize consumer trust and safety in digital marketplaces. Without effective consumer trust in digital markets, its growth and development lack of an essential piece. Similarly, the role of social media influencers in shaping consumer behaviour is a critical area of focus. Influencer marketing, while a powerful tool for businesses, often operates without adequate oversight, leaving consumers

vulnerable to misleading claims. The ethical and legal boundaries discussed in this context provide valuable guidance for creating fair and transparent advertising practices.

This collection also underscores the intersection of consumer protection and environmental sustainability, particularly in addressing microplastic contamination and its regulatory implications. Environmental threats tied to consumer products demand immediate attention, and the articles within this volume offer constructive pathways to integrate environmental considerations into safety standards. Such efforts not only protect public health but also promote sustainability, aligning consumer protection with broader ecological goals.

Hence, sustainability emerges clearly as a recurring theme throughout this volume. The exploration of product liability laws emphasizes their potential to incentivize sustainable manufacturing practices. Holding manufacturers accountable for unsafe practices not only protects consumers but also fosters responsible production methods that align with global sustainability goals. This dual benefit underscores the transformative potential of consumer protection laws as tools for societal progress.

The focus on child safety is a particularly impactful theme. Children, as vulnerable consumers, face unique risks in markets and digital environments. The analysis of legal protections against misleading advertisements and unsafe products highlights the urgent need for child-centric regulatory measures. These discussions extend to parental preferences for safe consumer products, which play a vital role in driving market trends. By examining the economic drivers behind these preferences, the collection bridges the gap between consumer behaviour and policy recommendations.

Digital markets, while a cornerstone of modern commerce, pose distinct challenges that are explored in depth. Fraudulent products, inadequate remedies, lack of accountability and the unstoppable advance of AI into actual trade and consumer protection in online shopping necessitate innovative legal solutions. This collection provides valuable insights into addressing these risks, advocating for stronger consumer protections in the digital era. The risks of targeted advertising, particularly for children, are also a critical focus. With young consumers increasingly exposed to exploitative marketing practices, there is an urgent need for regulatory safeguards that balance innovation with ethical considerations.

As an international expert in consumer protection and product safety, I am deeply encouraged by the depth and breadth of scholarship presented in this volume. The contributions reflect a shared commitment to advancing consumer justice through innovation, sustainability, and fairness. This body of work serves as both a critical analysis of existing frameworks and a visionary guide for future developments.

The insights offered here are not only academic but actionable, providing practical solutions for policymakers, industry leaders, and advocates. By addressing the challenges of modern commerce while prioritizing consumer safety and equity, this collection sets a benchmark for global discourse on consumer protection. It is a call to action to ensure that progress, whether technological or economic, does not come at the expense of public trust and well-being.

A handwritten signature in black ink, appearing to read 'Antonino Serra Cambaceres', with a horizontal line at the end.

Mr. Antonino Serra Cambaceres

International Expert Consumer Law and Protection
Argentina

Message from Ms. Ugochi Obidiegwu



The dynamic global marketplace is rapidly evolving, presenting new opportunities and complex challenges in consumer safety and advocacy. As product safety becomes an essential cornerstone of global trade and consumer rights, the importance of robust frameworks, innovative solutions, and international collaboration has never been greater. Addressing these critical needs, *"Advancing Consumer Justice: Navigating Product Safety in a Changing World"* emerges as a landmark publication, showcasing selected papers from the prestigious *"Protect and Serve: The 2024 International Conference on Product Safety and Consumer Advocacy,"* held in September 2024.

This edited volume captures the collective wisdom of global thought leaders, researchers, and practitioners. Each chapter is enriched with rigorous analysis, compelling case studies, and forward-thinking recommendations, reflecting the diversity and depth of discussions at the conference. The book also incorporates strategies and insights shared during the Conference including:

- Harmonizing global safety standards and enhancing cross-border collaboration.
- Empowering consumers through education and transparent product labeling.
- Integrating sustainability metrics into safety regulations and promoting circular economy practices.
- Leveraging technological advancements, such as AI and IoT, while ensuring robust safety protocols.

The success of this publication is a testament to the exceptional contributions of global experts who participated in the conference and beyond. We extend our heartfelt gratitude to the authors, moderators, judges, keynote speakers, editors, and reviewers whose dedication and expertise have shaped this invaluable resource. A special thanks to the organizing committee and collaborators from Dr. D.Y. Patil Law College, The Safety Chic, and Ramakrishna Law Firm and Research Center for making the conference a monumental success.

As the world continues to evolve, this book aspires to serve as a comprehensive guide for policymakers, practitioners, and advocates working toward a safer, more equitable, and sustainable global marketplace.

Together, let us advance the cause of consumer justice and safety for generations to come.



Ms. Ugochi Obidiegwu
Managing Partner/CEO
For and on behalf of
The Safety Chic, Nigeria

Message from Hon'ble Mr. Kalmeshwar T. Kiwad



India's legal framework has made remarkable progress in recent decades, reflecting its commitment to safeguarding consumer rights, promoting accountability, and ensuring access to justice. This evolution has been driven by the tireless efforts of advocates, policymakers, and institutions working to bridge gaps between consumer protection, product liability, and sustainability. This book, *Advancing Consumer Justice: Navigating Product Safety in a Changing World*, is a testament to these efforts, offering invaluable insights into the intersection of consumer rights, product safety, and environmental responsibility.

The *Consumer Protection Act of 2019* stands as a landmark achievement, empowering consumers to hold manufacturers, sellers, and service providers accountable. Its provisions on product liability provide a robust framework for ensuring consumer safety. Advocacy can further amplify the impact of this legislation by driving reforms to explicitly integrate sustainability into consumer laws. This would encourage manufacturers to adopt environmentally responsible practices, aligning economic growth with the global need for sustainable development.

Sustainability, as outlined in the *2030 Agenda for Sustainable Development*, particularly *Sustainable Development Goal (SDG) 12*, emphasizes responsible consumption and production. India's legislative framework, supported by initiatives like the Environmental Protection Act of 1986, the Ecomark Scheme, and ISO standards, lays a strong foundation for promoting sustainability. However, widespread adoption and enforcement remain critical. Advocacy can address these challenges by championing

mandatory eco-labeling and ensuring transparency in environmental claims, empowering consumers to make informed, sustainable choices.

This book also highlights recent advancements, such as the *Guidelines for Prevention and Regulation of Greenwashing or Misleading Environmental Claims*, 2024. These guidelines are a significant step forward in combating deceptive practices and promoting truthful environmental advertising. Advocacy plays a key role in amplifying the impact of such measures by fostering compliance and accountability across industries.

Consumer awareness of sustainability is growing, and this momentum can be further strengthened by proactive advocacy and education. Initiatives that encourage informed consumer behavior and promote collaboration among stakeholders can create a ripple effect, driving systemic change. Institutions like the *Ramkrishna Law Firm and Research Centre* in Chikodi, Karnataka, exemplify the power of grassroots advocacy in advancing consumer protection and sustainability. By fostering dialogue, conducting research, and mentoring future leaders, such initiatives contribute to a greener and safer future.

This book, with its comprehensive analysis and actionable insights, is a valuable resource for policymakers, scholars, advocates, and industry leaders committed to consumer justice. It underscores the importance of collaboration in addressing modern challenges and paves the way for integrating sustainability into the consumer protection ecosystem.

As India continues to evolve as a leader in consumer protection and sustainable development, let this book serve as a guiding light for collective action and innovation. Together, we can create a future where consumer rights and environmental priorities coexist, fostering harmony between consumption, production, and preservation.



Hon'ble, Mr. Kalmeshwar.T. Kiwad

President, Advocates Bar Association, Chikodi &

Member, Karnataka State Bar Council, Bengaluru.

EDITORIAL NOTE

In today's globalized market, international cooperation is crucial to ensure product safety, as products are often manufactured in one country and sold in another, both online and in traditional stores. Global supply chains, varying safety standards, and the rapid growth of e-commerce make it essential for countries to collaborate in harmonizing regulations, enforcing recalls, and maintaining consumer trust. By working together, nations can ensure that products meet consistent safety standards, regardless of their origin, protecting consumers worldwide and fostering safer global trade. That is why, Ramkrishna Law Firm & Research Centre, Chikodi, Karnataka; Dr. D.Y. Patil Law College Pimpri, Pune, Maharashtra, & The Safety Chic Nigeria collaborated and organized **“PROTECT AND SERVE: THE 2024 INTERNATIONAL CONFERENCE ON PRODUCT SAFETY AND CONSUMER ADVOCACY”** on September 20-21, 2024. The event witnessed an impressive gathering of over 150 distinguished participants, with 26 scholarly paper presentations, 6 eminent keynote speakers, and 3 esteemed guests, contributing to a robust exchange of ideas and fostering intellectual discourse at the highest level. The participants represented a diverse array of stakeholders, including national authorities, international regulators, consumer organizations, industry leaders, standard-setting bodies, test laboratories, academics, legal professionals, and students. This broad representation ensured a comprehensive and multidisciplinary dialogue on the critical issues of product safety and consumer advocacy.

We are pleased to present *Advancing Consumer Justice: Navigating Product Safety in a Changing World*, a curated compilation of selected papers from the Protect and Serve: The 2024 International Conference on Product Safety and Consumer Advocacy, held in September 2024. This publication represents the culmination of collective efforts by scholars, to address pressing issues in consumer protection and product safety.

The selected papers in this book cover a wide array of themes, providing critical insights into contemporary challenges and opportunities in product safety and consumer protection. These include an examination of product safety in e-commerce through a consumer protection lens, highlighting safety standards, liability, and legal remedies in online shopping. The book also delves into the role of social media influencers in shaping consumer awareness and advocacy for product safety. Environmental concerns take center stage in

discussions on microplastic contamination from plastic utensils and the legal analysis of India's regulatory frameworks, as well as a critical review of how product liability laws in India align with sustainability goals.

Parental preferences for safe consumer products are explored through an economic perspective, offering valuable insights into behavioral influences on purchasing decisions. The importance of advancing safety standards for children's products is underscored, with specific focus on addressing misleading advertisements and legal protections. Additionally, the interplay between consumer product safety and environmental sustainability is analyzed through legal perspectives on regulation.

The book also sheds light on safeguarding children in the digital age, exploring the challenges posed by targeted advertising and the growing need for robust protections in an increasingly digital marketplace. Together, these papers underscore the importance of multidisciplinary approaches to product safety and consumer advocacy, emphasizing the critical role of regulatory frameworks, ethical business practices, and consumer empowerment in navigating today's complex market dynamics.

Each paper included in this volume underwent a rigorous peer-review process to ensure scholarly excellence and practical relevance. We are deeply grateful to the authors for their insightful contributions, to the reviewers for their meticulous evaluations, and to the editors for ensuring the integrity of this publication. We also extend our heartfelt gratitude to the distinguished speakers and participants of the conference, whose engagement and expertise enriched the discussions and contributed to the depth of this volume.

This book owes its success to the efforts of the organizing teams from Dr. D.Y. Patil Unitech Society, D.Y. Patil Law College, The Safety Chic from Nigeria, and Ramkrishna Law Firm and Research Centre, Chikodi. Their commitment to fostering dialogue, research, and advocacy provided an invaluable platform for knowledge sharing and collaboration.

It is our hope that this book will serve as a meaningful resource for academics, practitioners, and policymakers, inspiring innovative approaches and collaborative efforts to address the challenges of consumer justice and product safety. By advancing these discussions, we aim to contribute to a safer, more equitable, and sustainable world for consumers everywhere.

Editorial Team

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Product Safety In E-Commerce: A Consumer Protection Perspective



Dr. Jehirul Islam
Associate Professor
Department of Law, Central University, Kashmir

Dr. Jehirul Islam has more than 13 years of experience teaching at various reputed institutions. He joined the Department of Law, Central University of Kashmir, in December 2023 as an Associate Professor of Law. Dr. Islam completed an International Post-Doctoral Programme in *New Technologies and Law* (2021–2022) from the Mediterranean International Centre for Human Rights Research, Mediterranean University, Reggio Calabria, Italy. He earned his Ph.D. from Gujarat National Law University, Gandhinagar, in 2020. He completed his BSL.LL.B. in 2008 and LL.M. in 2010 from the University of Pune.

Dr. Islam has contributed more than fifteen (15) research articles to various reputed national and international journals. He has also presented papers and delivered lectures as a resource person in numerous national and international seminars, conferences, workshops, and training programs. In recognition of his outstanding contributions to legal education and research, he was awarded the **NEPNI Award of Excellence-2023** by the NEPNI Group of Institutions. His areas of interest include Consumer and Competition Law, Law of Insolvency and Bankruptcy, Corporate Governance, Company Law, and the Law of Contract.

Product Safety in E-Commerce: A Consumer Protection Perspective

- Dr. Jehirul Islam

ABSTRACT:

The last decade has seen exponential growth of e-commerce market across the world in general, and in India, in particular. The growth of e-commerce market has many reasons, such as, easy to buy products or services at anytime from anywhere in the world, more choices, free delivery, etc. Though, e-commerce has brought forth many opportunities and facilities for consumers, yet, it has also posed many challenges in consumer protection. One of the major issues in e-commerce *vis-à-vis* consumer protection is product safety. The features like anonymity and physical separation have made e-commerce a fertile ground for selling unsafe products. Hence, ensuring product safety in e-commerce is of utmost importance looking at the scale in which e-commerce products are selling everyday through e-commerce portals. In India, the recent Consumer Protection Act, 2019 and the Rules and Regulations made thereunder have made several attempts for the protection of consumers from e-commerce traders for selling unsafe products in e-commerce platforms. However, the existing legal framework in India does not seem to provide sufficient and efficient protection to consumers in terms of product safety in e-commerce. This paper is an honest attempt to analyze the proliferation of product safety issues in e-commerce in India. This paper also made a systematic analysis of the existing Indian legal framework with respect to product safety in e-commerce from the perspective of consumer protection. Consumer International has come up with Guidelines for Online Product Safety. Hence, this paper tries to put forth feasible suggestions for product safety in e-commerce taking relevant provisions from the Guidelines for Online Product Safety.

Keywords: Consumer, Product Safety, E-Commerce, Consumer Protection

Research Methodology: Doctrinal method of research has been used. Descriptive, analytical, critical and comparative methods are used in different parts of the research paper.

I. INTRODUCTION

"A customer is the most important visitor in our premises. He is not dependent on us; we are dependent on him. He is not an interruption in

our work, he is the purpose of it. He is not an outsider to our business; he is part of it. We are not doing him a favour by serving him, he is doing us a favour by giving us an opportunity to do so."

Mahatma Gandhi

Online markets or e-commerce are businesses which use or provide digital platforms to connect sellers or service providers and consumers. They may also directly sale or provide services through those platforms to consumers. The number of online buyers is increasing every year. According to a recent survey conducted by Ipsos Research, 70% respondent expressed to buy online in upcoming festive season¹. E-commerce has the potential to facilitate consumers in numerous ways: save time and energy, more choices, easy to order at any time and from anywhere in the world, free delivery, etc. According to India Brand Equity Foundation, in 2023 India's e-commerce retail market valued between 57-60 billion US dollar².

The rapid expansion of ecommerce added fuel to the issue of product safety. The highest number of consumers in India worried about product safety, especially with respect to food products and children's items. It has been reported in 2017 that in the last five years' consumers in India have gone through the highest number of product safety issues compared to other world's top four consumer markets, such as the USA, China and Germany³. Even in 2022, study revealed that every second consumers in India received one or more unsafe or faulty products.⁴

-
- 1 '71% of Indian consumers intend to shop online this festive season: report' (*The Economic Times*, 12 September 2024) available at: <https://economictimes.indiatimes.com/tech/technology/71-of-indian-consumers-intend-to-shop-online-this-festive-season-report/articleshow/113293665.cms?from=mdr> (accessed on 14th September 2024).
 - 2 India Brand Equity Foundation, 'E-Commerce Industry in India' (20 July 2024) available at: <https://www.ibef.org/industry/e-commerce> (accessed on 28th August 2024).
 - 3 Chittaranjan Tembhekar, 'Product safety lowest in India among world's top 4 markets, yet brand rules' (*The Time of India*, 10 May 2017) available at: <https://timesofindia.indiatimes.com/business/india-business/product-safety-lowest-inindia-among-worlds-top-4-markets-yet-brand-rules/articleshow/58585945.cms> (accessed on 30th August 2024).
 - 4 'One in two Indian consumers stuck with high value defective products: Survey' (*Livemint*, 31 March 2022. available at: www.livemint.com/industry/retail/one-in-two-indian-consumers-stuck-with-high-valuedefective-products-survey-11648706907758.html (accessed on 25th August 2024).

It has been predicted that by 2030 India will become third-largest consumer market⁵. Hence, businesses around the world look India as potential market for selling their goods and service. Thus, it is a high time for India to explore and make robust legal and regulatory mechanisms for the protection of consumers from unsafe products selling more particularly through e-commerce platforms.

II. PRODUCT SAFETY IN E-COMMERCE: ISSUES AND CHALLENGES

Nothing substantial has been done, though numerous studies revealed that product safety issues have attracting the attention of consumers in India. It is visible, almost in every day, news of injury or death by using unsafe products in India⁶. The Central Consumer Protection Authority, established under the Consumer Protection Act, 2019, in May 2023, took an action against a number of e-commerce platforms for offering and selling “car seat belt alarm stopper clips” which is harmful to “life and safety of consumers.” Likewise, in August 2022, the Authority had to take action against Amazon for selling low-quality pressure cookers to Indian consumers⁷.

In November, 2023 the Central Consumer Protection Authority issued an order to e-commerce entities to restrict them from selling or offering to sale acid and other corrosives. The Central Consumer Protection Authority expressed that there have been many instances of selling highly corrosive acids through e-commerce entities in India, and according to the Commission the “*availability of hazardous acids in such a freewheeling and easily accessible manner can be dangerous and unsafe for consumers and to the public at large.*” The easy access to online acid through e-commerce entities raised the eyebrows of the

5 CUTS International, ‘Sixth Intergovernmental Group of Experts on Consumer Law and Policy’ available at: https://unctad.org/system/files/non-official_document/ccpb_IGECON_Consumer_Prod_Safety_Contrib_CUTS_en.pdf(accessed on 10th September 2024).

6 CUTS International, ‘Sixth Intergovernmental Group of Experts on Consumer Law and Policy’ available at: https://unctad.org/system/files/non-official_document/ccpb_IGECON_Consumer_Prod_Safety_Contrib_CUTS_en.pdf(accessed 10 September 2024).

7 Vallari Sanzgiri, ‘India’s Consumer Affairs Department Initiates Safety Pledge for E-Commerce Platforms’ (*MEDIANAMA*, 17th November 2023) available at: <https://www.medianama.com/2023/11/223-department-of-consumer-affairs-safety-pledge-2/#:~:text=For%20example%20in%20May%202023,for%20selling%20low%2Dquality%20pressure> (accessed on 12th September 2024).

regulators, as such easy access may cause bigger crimes such as acid attacks which is highly dangerous to vulnerable groups, especially women⁸.

It is essential to disclose expiry date, manufacturing date, etc. of products to consumers to enable them to make an informed choice and protect their safety. However, reports reveals that e-commerce platforms very often do not disclose such information to consumers in their platforms⁹. This requires an urgent call for robust mechanism for ensuring strict enforcement of laws against the e-commerce players to safeguard consumers' interest effectively.

The consumer policy in India and enforcement mechanisms have not reach to the height that consumers and businesses have reached. Hence, gaps are visible in regulation, enforcement and awareness which leave consumers at risk. Consumers in India increasingly buying unsafe products through e-commerce platforms whose standards of safety are highly unregulated.

E-commerce enables sellers or service providers from other countries to sale products or provides services in India. These geographical boundaries less e-commerce transactions posed new challenges from the perspective of enforcement of consumer protection laws against such foreign sellers or service providers in the event of selling or providing faulty products. Therefore, lack of cross-border cooperation leaves consumers at risk of buying unsafe products.

Consumers in e-commerce often do not have sufficient knowledge or information about the ill effect of the product sold online. This can result in exposure of consumers to higher risk which initially may not be noticeable by consumers but eventually may cause greater harm. This happens very often with food products.

8 Sarvesh Mathi, 'India's consumer protection authority issues notice to e-commerce platforms on sale of acid' (*MEDIANAMA*, 5 December 2023) available at: <https://www.medianama.com/2023/12/223-ccpa-acid-e-commerce-safety-notice/> (accessed on 12th September 2024).

9 Lavu Sri Krishna Devarayalu, 'Strict enforcement of expiry date regulations in India's online marketplaces necessary for consumer safety and trust' (*The Economic Times*, 13 April 2024) available at: <https://retail.economictimes.indiatimes.com/blog/strict-enforcement-of-expiry-date-regulations-in-indias-online-marketplacesnecessary-for-consumer-safety-and-trust/109249875> (accessed on 25th August 2024).

Another reason for difficulty in ensuring product safety in e-commerce is that e-commerce marketplace often take the defence of safe harbour provision as provided in section 79 of the Information Technology Act, 2000. Therefore, without making e-commerce marketplace responsible, enforcement of product safety in e-commerce is unlikely to be successful.

III. PRODUCT SAFETY AND INDIAN LEGAL AND REGULATORY LANDSCAPE

Till 2019, in India, twenty-five legislations, constitutional provisions, numerous international convention and various regulation have dealt with the issues of consumer product safety. The Consumer Protection Act, 2019 has, to a certain extent, changed the product liability legal landscape in India. Earlier, product liability claims were made under law of torts and contract law. However, Indian judiciary, in absence of a specific legislation on product liability, through liberal legal interpretation of various legislation such as the Indian Contract Act, 1872, the Sale of Goods Act, 1930 and the Consumer Protection Act, 1986 secured claims of consumers in the event of unsafe products. Yet, claims based on case laws were not uniform and judiciary also took different stands in similar cases which resulted in confusions¹⁰.

The Consumer Protection Act, 2019, for the first time, brought forth a direct reference to product safety and product liability. The Consumer Protection Act, 2019 defines the term “Product Liability” as: *“product liability” means the responsibility of a product manufacturer or product seller, of any product or service, to compensate for any harm caused to a consumer by such defective product manufactured or sold or by deficiency in services relating thereto*¹¹. The unique characteristics of the provisions with respect to product liability in the Consumer Protection Act, 2019 are: (a) the provisions impose product liability to the product seller in addition to the product manufacturer; (b) the provisions brought forth strict liability of product seller or manufacturer in the event of defective products where a consumer is not required to prove actual negligence on the part of seller or product manufacturer. The term “product”

10 CUTS International, ‘Sixth Intergovernmental Group of Experts on Consumer Law and Policy’ available at: https://unctad.org/system/files/non-officialdocument/ccpb_IGECON_Consumer_Prod_Safety_Contrib_CUTS_en.pdf (accessed on 10th September 2024).

11 The Consumer Protection Act 2019, s 2(34).

has been defined as: “*product means any article or goods or substance or raw material or any extended cycle of such product, which may be in gaseous, liquid, or solid state possessing intrinsic value which is capable of delivery either as wholly assembled or as a component part and is produced for introduction to trade or commerce, but does not include human tissues, blood, blood products and organs*”¹² Product Liability Action is defined as “*a complaint filed by a person before a District Commission or State Commission or National Commission, as the case may be, for claiming compensation for the harm caused to him*”¹³. The term “harm” is also defined as “*harm, in relation to a product liability, includes— (i) damage to any property, other than the product itself; (ii) personal injury, illness or death; (iii) mental agony or emotional distress attendant to personal injury or illness or damage to property; or (iv) any loss of consortium or services or other loss resulting from a harm referred to in sub-clause (i) or sub-clause (ii) or sub-clause (iii)*”¹⁴ Similarly other terms with respect to product liability, such as, product manufacturer, product seller, product service provider are also defined under the Consumer Protection Act, 2019.

A new chapter has been introduced in the Consumer Protection Act, 2019 specifically dedicated to product liability. The following are the provisions of the chapter VI of the Act:

“82. This Chapter shall apply to every claim for compensation under a product liability action by a complainant for any harm caused by a defective product manufactured by a product manufacturer or serviced by a product service provider or sold by a product seller.

83. A product liability action may be brought by a complainant against a product manufacturer or a product service provider or a product seller, as the case may be, for any harm caused to him on account of a defective product.

84. (1) A product manufacturer shall be liable in a product liability action, if—

(a) the product contains a manufacturing defect; or

12 The Consumer Protection Act 2019, s 2(33).

13 The Consumer Protection Act 2019, 2 2(35).

14 The Consumer Protection Act 2019, s 2(22).

- (b) the product is defective in design; or*
- (c) there is a deviation from manufacturing specifications; or*
- (d) the product does not conform to the express warranty; or*
- (e) the product fails to contain adequate instructions of correct usage to prevent any harm or any warning regarding improper or incorrect usage.*

(2) A product manufacturer shall be liable in a product liability action even if he proves that he was not negligent or fraudulent in making the express warranty of a product.

85. A product service provider shall be liable in a product liability action, if—

- (a) the service provided by him was faulty or imperfect or deficient or inadequate in quality, nature or manner of performance which is required to be provided by or under any law for the time being in force, or pursuant to any contract or otherwise; or*
- (b) there was an act of omission or commission or negligence or conscious withholding any information which caused harm; or*
- (c) the service provider did not issue adequate instructions or warnings to prevent any harm; or*
- (d) the service did not conform to express warranty or the terms and conditions of the contract*

86. A product seller who is not a product manufacturer shall be liable in a product liability action, if—

- (a) he has exercised substantial control over the designing, testing, manufacturing, packaging or labelling of a product that caused harm; or*
- (b) he has altered or modified the product and such alteration or modification was the substantial factor in causing the harm; or*
- (c) he has made an express warranty of a product independent of any express warranty made by a manufacturer and such product failed to conform to the express warranty made by the product seller which caused the harm; or*

- (d) the product has been sold by him and the identity of product manufacturer of such product is not known, or if known, the service of notice or process or warrant cannot be effected on him or he is not subject to the law which is in force in India or the order, if any, passed or to be passed cannot be enforced against him; or*
- (e) he failed to exercise reasonable care in assembling, inspecting or maintaining such product or he did not pass on the warnings or instructions of the product manufacturer regarding the dangers involved or proper usage of the product while selling such product and such failure was the proximate cause of the harm.*

87. (1) A product liability action cannot be brought against the product seller if, at the time of harm, the product was misused, altered, or modified.

(2) In any product liability action based on the failure to provide adequate warnings or instructions, the product manufacturer shall not be liable, if—

- (a) the product was purchased by an employer for use at the workplace and the product manufacturer had provided warnings or instructions to such employer;*
- (b) the product was sold as a component or material to be used in another product and necessary warnings or instructions were given by the product manufacturer to the purchaser of such component or material, but the harm was caused to the complainant by use of the end product in which such component or material was used;*
- (c) the product was one which was legally meant to be used or dispensed only by or under the supervision of an expert or a class of experts and the product manufacturer had employed reasonable means to give the warnings or instructions for usage of such product to such expert or class of experts; or*
- (d) the complainant, while using such product, was under the influence of alcohol or any prescription drug which had not been prescribed by a medical practitioner.*

(3) A product manufacturer shall not be liable for failure to instruct or warn about a danger which is obvious or commonly known to the user or consumer of such product or which, such user or consumer, ought to have known, taking into account the characteristics of such product.”

In addition, penal provisions are also incorporated in the Consumer Protection Act, 2019 in case of selling or providing unsafe products or services as the case may be.

Thus, one of the fundamental principles of the Consumer Protection Act, 2019 is to ensure sale of safe product to consumers. Sub-section 9 of section 2 of the Act recognise “Consumer Rights” which includes “*right to be protected against the marketing of goods, products, or services which are hazardous to life and property*”. In addition, authority has also been given to the Central Consumer Protection Authority to issue directions to sellers or service providers not to offer or sale unsafe products or goods to consumers.

However, it is to be noted that the provisions with respect product liability action under the Consumer Protection Act, 2019 primarily provide for post-policing system, where claims can be made after the product safety issues arise. However, to reduce the product safety issues substantially, it important to have pre-policing approach.

The Bureau of Indian Standard (BIS) regulates quality standards of different products and services. The Bureau prescribed quality standards for 21, 901 different services and products. However, only 361 products are required to have mandatory certification.¹⁵ Rest of the products are left with voluntary certification which resulted in circulation and sale of many substandard products in markets. Mandatory certification under the Bureau of Indian Standard would encourage production and sale of high standard products, which not only ensure product safety but also bring products to the level of international standards. A regular monitoring of marketplace, especially e-commerce marketplace, is a much needed step to be taken to ensure products are complying with national and international standard and are not harmful to health and safety. Such pre-policing through enforcement mechanism would ensure product safety to a greater extend.

¹⁵ Bureau of Indian Standards, ‘BIS Annual Report 2020-21 Review Statement’ available at: www.bis.gov.in/wpcontent/uploads/2022/02/Review-Statement-BIS-AR-2020-21.pdf (accessed on 24th August 2024).

IV. RECENT INITIATIVE FOR PRODUCT SAFETY IN E-COMMERCE

In November, 2023, the Department of Consumer Affairs, Ministry of Consumer Affairs, Food & Public Distribution, Government of India invited all stakeholders including e-commerce platforms for the purpose of consultation on “Safety Pledge” for e-commerce platforms. The objective of safety pledge is to ensure safety standards of products selling through e-commerce platforms in India. The broad principle and theme of the pledge includes a promise to prohibit sale of unsafe products, consumers and sellers or services providers' awareness and cooperation with regulators and law enforcement authorities.

In the stakeholders meet, the Department of Consumer Affairs emphasized upon the importance of product safety for consumers buying products from e-commerce platforms and highlighted the provisions under the Consumer Protection Act, 2019 for product safety. While emphasizing on the need of safety pledge, the Department took a reference of safety pledge system in practice in other countries such as Japan, Canada, European Union, South Korea and Australia. The Department also expressed that, to adopt the best international practices with respect to preventing and detecting sale of unsafe products to consumers through e-commerce platforms, it is closely working with the European Commission. The proposed safety pledge would be a voluntary promise by e-commerce entities to stay away from selling or offering unsafe products to online consumers in Indian e-commerce markets.

For drafting the Safety Pledge, the Department of Consumer Affairs constituted a committee consist of major e-commerce entities, voluntary association working for consumer rights, Chair professors of National Law Universities, numerous Industry Associations.¹⁶

V. SUGGESTIONS AND RECOMMENDATIONS

Thus, e-commerce is inevitable due to the advantages it has brought forth to consumers as well as business. A systematic shift from physical trade to trade through e-commerce is visible across the world. The issues with respect to

16 Press Information Bureau, 'Department of Consumer Affairs holds stakeholder consultation on Safety Pledge for e-commerce platforms' (*PIB Delhi*, 16 November 2023) available at: [https://pib.gov.in/PressReleasePage.aspx?PRID=1977417#:~:text=The%20proposed%20principles%20of%20the,empowering%20consumers%20on%20product%20safety,\(accessed on 11th September 2024\).](https://pib.gov.in/PressReleasePage.aspx?PRID=1977417#:~:text=The%20proposed%20principles%20of%20the,empowering%20consumers%20on%20product%20safety,(accessed%20on%2011th%20September%202024).)

selling or offering to sale unsafe products or services through online platforms are very evident in online market. The unique features of online market such as anonymity, geographical separation and free access added fuel to encourage selling or offering unsafe products in online platforms. An urgent and holistic approach is needed to address the issue. Though, the Consumer Protection Act, 2019 incorporated a new chapter dedicated to product liability imposing responsibilities on product sellers, manufacturer and product service providers, yet, the existing provision is not sufficient to address the issue. More pre-policing approach is needed for ensuring selling of safe and harmless products by e-commerce entities. Moreover, e-commerce is global in nature, hence, any person from any part of the world can sale harmful products to consumers anywhere in the world. Therefore, a global solution to the issue is required for the effective consumer protection.

The following are the recommendations for effective consumer protection *vis-à-vis* product safety in e-commerce:

1. Technological and legal measures should be taken to ensure that e-commerce traders do not sale or offer to sale any unsafe goods or products.
2. The products for which voluntary BIS certification is prescribed should be prescribed for mandatory certification. Accordingly, responsibilities should be imposed on e-commerce marketplace to ensure that all the products selling in e-commerce marketplace are with BIS certificates. E-commerce marketplace should take greater responsibility to ensure product safety in e-commerce.
3. Central Consumer Protection Authority should establish databases containing information about product safety violations and list of product recalled which should be open access to all for the information and necessary precautions and actions.
4. For the effective enforcement of product safety, ministerial collaborations of different ministries of the government is required.
5. The government should strive for collaboration with other foreign countries through agreement or conventions with an objective of enforcement and regulatory cooperation *vis-à-vis* product safety in online shopping.

6. There should be independent third party certification mechanism for e-commerce entities' processes and mechanisms for preventing and detecting of unsafe product in their platforms.
7. It should be made mandatory for e-commerce marketplace to use both technological and non-technological tools to detect and remove unsafe product from the marketplace. Non-technological tools may be in the form of compliance auditing of sellers in the marketplace and random checks of the products.
8. An audited course should be made mandatory for all sellers in e-commerce which should be consisting of legal and regulatory framework with respect to product safety in India.
9. The mechanism with respect to product safety compliance rating should be implanted by the government to encourage product safety in e-commerce platforms.
10. Government should initiate large-scale awareness among consumers about product safety and precaution to be taken by consumers while buying products online.



A Critical Perspective on The Role of Social Media Influencers in Product Safety and Consumer Protection



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A Critical Perspective on The Role of Social Media Influencers in Product Safety and Consumer Protection

- Dr. Thippeswamy

ABSTRACT:

During the present era, digital and social media consumption has significantly increased, which has led to a substantial change from offline to online shopping. Consumers now generally rely on influencer product and service reviews related content before making any online purchases. Such content could be either organic and genuine or commercially motivated. This has resulted in the blurring of lines between genuine digital content and paid promotional content, and consumers are often unable to differentiate the two. Undeniably, influencers are able to connect with their audience and impact consumers choices. This sphere of influence is shaped by the trust placed in influencers by consumers. As a result, when an influencer promotes a product or service, it can have a significant impact on the purchasing decisions of their followers.

However, the rise of incorrect advice or information regarding products, brands, and misleading information raises the question of whether blindly following influencers can have adverse consequences, highlighting the need for research and guidance. It is mandatory for social media influencers to disclose their material interest in endorsing products and services, and if its violations can attract strict legal action, including bans on endorsements. India has struggled to keep pace with this rapid evolution and expansion of means of such influencer advertising through the digital medium and to hold influencers liable for their pervasive and sometimes deceptive behavior patterns. It is crucial to understand and comply with legal requirements and guidelines to ensure transparency, protect consumers' rights, and maintain ethical practices. This paper attempts to explore the critical point of view that social media influencers influence consumer choices and decisions by which misleading advertising and deceptive practices are governed by the regulations, rules, and guidelines that are protecting the consumer interest.

Key points: Social media, influencers in marketing, regulations, and laws.

I. INTRODUCTION

Social media influencers have become key players in the advertising industry. The use of influencers for advertising purposes is, however, not without risks for the consumer. Influencers are, by definition, not only the disseminators, but also the creators of the marketing content.¹ With the continuous expansion of social media sites, the number and power of social media influencers have been increasing in recent years. These social media influencers have created a strong impression in many different categories, specifically, fashion, travel, food, health, and entertainment. Most social media influencers have a presence on multiple social networking sites, such as *Facebook, Twitter, TikTok, Instagram, and YouTube etc.*² arguably, the ubiquitous connectivity enabled by the proliferation of social media has fundamentally transformed consumers' position in traditional structures and completely changed the relationship between consumers and brands. In these computers -mediated environments, consumers voicing their opinions about products and services and have power to control the decisions process of the masses³. As a result, when influencers promote a product or service, it can have a significant impact on the purchasing decisions of their followers. A product can quickly gain popularity and become a trend among their followers. This leads to increased sales for the manufacturer, as well as a boost in brand awareness and recognition.⁴

About product placement, an embedded advertising technique has been a subject of criticism because of its potential influence on consumers and its

1 Julie Kerckaert , Influencer Marketing Meets Consumer Protection: The Role of the Rules on Unfair Commercial Practices in Regulating Social Media Influencers, working paper series, drafted, Financial Law Institute, Ghent University, Belgium 2024, P.2.

2 KaukabAbidAzhar etal., How do social media influencers drive consumer behavior, Pak. Journal of International. Affairs, Vol. 6, Issue. 2 2023, P.1116.

3 Demetris Vrontis etal., Social Media influencer marketing: A systematic review, integrative framework and future research agenda, International Journal of consumer Studies, 21st December 2021, P.617.

4 Avantika Shukla and Anil Khanna, Guidelines for Social Media Influencers: It's Hard To Influence Anymore! 7th June 2023. Available at <https://www.livelaw.in/law-firms/law-firm-articles-/social-media-influencers-ministry-of-consumer-affairs-food-and-public-distribution-consumer-protection-act-2019-sarthak-advocates-solicitors-consumer-230215> (accessed on 21st September 2024).

concealed commercial purpose. The intrusive nature of product placement has been viewed as an invasion of audiences' innocence, while the placement of ethically charged products and the placement of brands targeting the vulnerable group of children have caused particular concern. It is regarded as an unethical or even deceptive practice by consumer advocacy groups. There are currently no rules or regulations governing product placement in films, although surveillance on product placement in television programs by the regulatory bodies is documented⁵. However, the social media influencers have certain rights and obligations whether working with paid or unpaid collaborations. In case of paid collaborations, they must ensure that every sponsored post published is clearly marked so that there is no doubt in the minds of the consumer. It is also their responsibility to only recommend products that they can support, and this is typically where the issues arise. But the social media influencer should never promote something that they don't support or lie about a product to generate sales for the brand.⁶ It is mandatory for social media influencers to disclose their "material" interest in endorsing products and services and violations can attract strict legal action, including ban on endorsements. The regulations are part of continuing efforts to curb misleading advertisements as well protect the interests of consumers amid the expanding social influencer market which is projected to be worth around Rs 2,800 crore by 2025. It has been issued new guidelines name '*Endorsement know hows*, for celebrities, influencers and virtual media influencer (Avatar or computer generated character) on social media platforms, by the department of consumers affairs. In case of violations the penalty prescribed for misleading advertisement the new amended consumer protection act, 2019 will be applicable.⁷ This paper attempts to examine the protection of consumer rights

5 Fanny Fong Yee Chan, Prior disclosure of product placement: The more explicit the disclosure, the better the brand recall and brand attitude, *Journal of Business Research*, Vol.120, November 2020, P.32.

6 Shantu Shah Associates et al., Social Media Influencers Boon or Bane, 3rd March, 2020, Available at <https://www.legal500.com/developments/thought-leadership/social-media-influencers-boon-or-bane> (accessed on 17th September 2024).

7 Product promotions: Gov. makes it mandatory for social media influencers to disclose material interest, 20th January, 2023, Available at <https://economictimes.indiatimes.com/news/india/product-promotions-govt-makes-it-mandatory-for-social-media-influencers-to-disclose-material-interest/articleshow/97175001> (accessed on 17th September 2024).

and product safety by social media influencers for advertising the products, marketing influences the consumers decision for buying capacity and strength, and its obligation to disclose the product material, brand, or source of information instead of misleading the consumers, its peanable, and new rules and regulations must be obligated.

II. OBJECTIVES OF THE PAPER

The paper containing the following objectives attempts to reach a theoretical approach.

1. To explore the role of social media influencers in protecting consumers and promoting product safety consumers
2. To evaluate the regulation authorities and laws to protect the consumer interest against unfair trade practices and misleading advertisements.

III. METHOD OF RESEARCH

The descriptive research methodology used in this study is based on secondary sources of data gathered from newspapers, books, articles, the internet, and other relevant sources. This study primarily focuses on the impact of social media influencers in marketing products and advertising and the changing consumer behavior and decisions.

IV. THE IMPACT OF SOCIAL MEDIA INFLUENCER ON CONSUMER PROTECTION AND PRODUCT SAFETY

A. SOCIAL MEDIA

The rise of social media over the last years has drawn the interest of researchers and practitioners to acknowledge social media as a tool to better serve customers. Given that the use of social media allows firms to engage in timely and direct contact with end customers at relatively low costs and high efficiency compared to traditional media. It is assumed that social media is relevant for firms of all sizes.⁸ It is one of the major digital technologies that have precipitated this shift as it holds the potential for digitally connecting and networking with existing and potential buyers in new and dynamic methods. Acknowledging the importance of social media in business to business

⁸ Dominyka Venciute Social Media Marketing – from Tool to Capability, published by Sciendo Organizacijų Vadyba Sisteminiai Tyrimai, 2018, Pp.132-133.

settings, sales researchers have compiled a substantial body of research on the drivers and performance-related outcomes of social media use by business to business salespeople.⁹

Furthermore, that agility that social media brings to the equation is not relegated to just one strategy. In other words, typical strategies related to relationship, product/service, customer, and finally price are not mutually exclusive. Social media certainly has the potential to affect each of these strategies in disparate ways at different times, but they are all bound by enhanced engagement with the customer.¹⁰

The social media act as an enabling technology for co-creation a number of high-tech firms have leveraged its potential for involving their customers in the new product development process. An underlying assumption of such strategies is that customer-firm co-creation specific to NPD in social media can produce positive performance impacts. Although the practices suggest the need for understanding the role of customer co-creation in social media, there have been few studies in this area.¹¹ The social media such as *Facebook, Twitter and YouTube* are dynamic tools that facilitate online relationships. It is a relatively low cost form of marketing and allows organizations to engage in direct and end-user contact. Given the choices made available to consumers and the influential role of social media marketing, the brands and consumers have a changing role to play in the organization's strategy in that they now have an economic impact. Brands influence customer choice. Customers influence other customers.¹²

9^{*} Itani, O.S et al., The impact of business-to-business salespeople's social media use on value co-creation and cross/up-selling: the role of social capital, *European Journal of Marketing*, Vol. 57 No. 3, 2023, P.689.

10 James Mick et al., A Review of Social Media and Implications for the Sales Process, *Journal of Personal selling & Sales Management*, Vol. XXXII, No.3, 2012, P.310.

11 H. Zhang, W. Wang, S. Gupta, How social-media-enabled co-creation between customers and the firm drives business value? The perspective of organizational learning and social Capital, *Journal of Information & Management*, vol.57, Issue.3, April, 2020, P 538.

12 Chopra C. & Gupta S Impact of Social Media on Consumer Behavior, *International journal of Creative Research thoughts*, Vol.8. Issue.6, June 2020, P.1948.

B. SOCIAL MEDIA INFLUENCERS

Influencer marketing is a new marketing tactic that is being widely used by numerous marketers around the world. The term “influence” can be widely defined as the ability to influence someone, something, or a chain of events” A technique that employs social media (content created by everyday people using highly accessible and scalable technologies such as blogs, message boards, podcasts, micro-blogs, bookmarks, social networks, communities, wikis, and vlogs) and social influencers (everyday people who have an outsized influence on their peers by virtue of how much content they share online) to achieve an organization’s marketing and business goals.¹³

However the goals of using social media influencers are to promote branding, raise awareness, improve customer service, and manage customer relationships. People with a big social media following who can influence or persuade others are known as social media influencers. They also have the ability to influence other people’s purchasing decisions.¹⁴ In this concern there are four categories of social media influencers, and they are celebrity influencer, micro-celebrity, industry expert, bloggers and content creators.¹⁵

But the fashion industry adopts celebrity influencers in four different ways such as promoting a product or services; product endorsement; acting strategies such that the influencer will be asked to perform a role with respect to a product and the last category of social media influencer entails influencing the purchase of a consumer by acting as a spokesperson for the brand.¹⁶ The SMIs are also known as they are self-governing third-party endorsers, who through posts on Instagram, or other social media platforms, convey their message, knowledge and ideas¹⁷ and attitudes through content creation,

13 Mohan A. The Repercussions of Influencer Marketing on Consumer’s Purchase Intention, International Journal of Science and Research (IJSR) Volume 11 Issue 1, January 2022, p.343.

14 Freberg, K., et al., Who are the social media influencers? A study of public perceptions of personality, Public Relations Review, Vol. 37 No.1 2011 P.92.

15 Dizon, M. F. ‘What is an influencer?’, *Business Mirror*, 2015 P.2.

16 Solomon, M. R. Consumer Behaviour: Buying, having and being, 10th edn. Pearson Education. 2013.

17 Wong, K. ‘The explosive growth of influencer marketing and what it means for you. 2014.

podcasts, pictures, videos etc.as such, they are used by companies for social media marketing.¹⁸

C. SUSCEPTIBILITY TO TRUSTED OTHERS

Concerning the social media influencer, to provide insight into their susceptibility to influence, the respondents were asked to indicate the importance of the opinions of three sources of influence when making any purchasing decisions: family, friends, and social media. The information gathered on the research paper was analyzed. Table no. 1 presents the percentage of respondents who rated the opinions of these groups as important. The final two columns represent the views of those who did not buy SMI endorsed counterfeits.

Table No. 1 OPINIONS OF TRUSTED OTHERS IMPORTANT TO CONSUMERS

		Age Range Counterfeits						Bought SMI	
		All	16-24	25-33	34-42	43-51	52-60	No	Yes
Overall	Opinions of family	73%	71%	77%	77%	73%	68%	73%	75%
	Opinions of friends	65%	72%	74%	66%	60%	52%	61%	80%
	Opinions of Social Media	33%	44%	47%	35%	26%	14%	26%	59%
Female	Opinions of family	76%	77%	78%	82%	75%	69%	76%	76%
	Opinions of friends	62%	74%	70%	65%	51%	53%	60%	76%
	Opinions of Social Media	30%	49%	42%	30%	20%	13%	25%	63%
Male	Opinions of family	71%	67%	77%	73%	70%	67%	69%	75%
	Opinions of friends	68%	72%	79%	69%	69%	51%	62%	83%
	Opinions of Social Media	36%	39%	53%	40%	31%	16%	27%	58%

In contrast, the age profiles associated with friends and social media content are similar to the declining pattern for counterfeit purchasing in figure no. 1, with an important exception: the peak level of male susceptibility is in the 25-33y

18 Kalu F., The Impact Of Social Media Influencer Marketing On Purchase Intention From An Irish Male Millennia’s Perception: A Case Study Of Irish Fashion industry, thesis dissertation submitted to National College, of Ireland, August, 2019, P20.

group and is most pronounced for opinions on social media (53%). It then falls rapidly to the same level as females in the 52-60y group (14% overall). The clear difference between buyers and non-buyers indicates that buyers are more susceptible to the influence of friends and social media. The largest differential is associated with social media (26% to 59%). Importantly, the elevated susceptibility to friends and social media influence for male and female buyers is very similar.¹⁹

D. CONSUMER RISK PERCEPTIONS

Finding the five dimensions of risk are used to assess the risk perceptions of consumers: three relate to product attributes, one to the economy and one to risk appetite. The respondents were asked about the importance of quality and safety in influencing their general purchasing decisions. They were also asked whether buying counterfeits poses a threat to health and safety. Enquiring into their awareness of risks to the economy, respondents indicated whether buying counterfeits harms businesses and jobs. The reverse results are presented in Table 2 for these four factors, for example quality is not an important consideration and counterfeits are safe.

Table No.2 RISK PERCEPTIONS

	Risk perception	Age Range						Bought SMI	
		Counterfeits						No	Yes
		All	16-24	25-33	34-42	43-51	52-60		
Overall	Quality is not an important factor	89%	14%	11%	8%	5%	4%	4%	12%
	Safety is not an important factor	99%	18%	11%	8%	6%	4%	6%	12%
	Counterfeits don't harm business/jobs	13%	30%	22%	18%	14%	12%	11%	21%
	Counterfeits are safe	14%	35%	26%	21%	18%	16%	12%	21%
	Risk-taker	40%	50%	51%	40%	33%	25%	32%	67%

19 David Shepherd et al., The Impact of Deviant Social Media Influencers and Consumer Characteristics on Purchasing Counterfeit Goods, *An Interdisciplinary Journal Deviate Behaviour*, Vol.44, No.12, July 6, 2023 (Published with license by Taylor & Francis Group, LLC.) Pp.1754-1755.

Female	Quality is not an important factor	5%	9%	5%	5%	3%	1%	3%	17%
	Safety is not an important factor	6%	13%	6%	5%	4%	2%	4%	17%
	Counterfeits don't harm business/jobs	11%	26%	21%	19%	15%	12%	10%	17%
	Counterfeits are safe	12%	31%	16%	18%	20%	18%	11%	20%
	Risk-taker	31%	51%	38%	29%	21%	19%	26%	64%
Male	Quality is not an important factor	12%	18%	16%	11%	6%	6%	6%	23%
	Safety is not an important factor	13%	23%	17%	11%	9%	5%	8%	24%
	Counterfeits don't harm business/jobs	15%	24%	24%	16%	13%	11%	12%	23%
	Counterfeits are safe	17%	40%	26%	23%	15%	14%	15%	22%
	Risk-taker	49%	50%	63%	50%	44%	33%	39%	68%

Table 2 presents the perceptions of the risk-taker group only. The results follow the familiar age profile. Younger consumers tend to have weaker risk perceptions. They are more likely to be unconcerned about quality and safety in their general purchasing decisions; more likely to believe that the demand for counterfeits has no economic impact; more likely to believe that counterfeits are safe. Younger consumers are also more likely to be risk-takers.

Comparing the genders, males exhibit a higher risk tolerance. Furthermore, males sustain a higher level of risk tolerance into the 25-33y group with respect to the quality factor, safety factor and the risk-taker characteristic. Indeed, this group has the highest proportion of risk-takers (63%). The differential between non-buyers and buyers demonstrates a higher risk tolerance across all the factors in the buyer group. It also shows consistency between the female and male buyers, especially in the proportion of female (64%) and male (68%) risk-takers.²⁰

E. CONSUMER RATIONALIZATIONS

It explores the prevalence of rationalizations; the respondents were asked whether it is acceptable to buy counterfeit products when the authentic brand

20 Dohmen T et al., "Individual Risk Attitudes: Measurement, Determinants, and Behavioral Consequences" *Journal of the European Economic Association*, Vol. 9, No. 3 June 2011, P.525.

owners charge too much, when the quality of the product does not matter, or when it concerns luxury products. They were also asked whether buying counterfeits is an act of protest against the market driven economy and the large premium brands. Overall, about one-third concurred with the price, quality and luxury product rationalizations, and over half (57%) viewed it as an act of protest. The results again follow the familiar age, gender and buyer profiles. The differential between non-buyers and buyers indicates the latter are much more likely to approve of the rationalizations (typically 70%), and this higher level of approval is notably consistent between the genders.

Table No. 3 CONSUMER RATIONALIZATIONS IN FAVOR OF PURCHASING COUNTERFEITS.

	Rationalization	Age Range						Bought SMI	
		Counterfeits						No	Yes
		All	16-24	25-33	34-42	43-51	52-60		
Overall	When genuine item Price is to high	38%	58%	48%	38%	27%	21%	30%	67%
	When quality not important	36%	56%	46%	34%	25%	20%	26%	70%
	When counterfeit of luxury products	34%	50%	46%	33%	24%	16%	24%	68%
	Counterfeit purchases act of protest	57%	61%	63%	59%	53%	47%	53%	72%
Female	When genuine item Price is to high	34%	57%	39%	34%	24%	18%	29%	68%
	When quality not important	31%	52%	36%	29%	23%	20%	26%	68%
	When counterfeit of luxury products	29%	47%	35%	27%	21%	17%	23%	65%
	Counterfeit purchases act of protest	53%	59%	55%	55%	51%	47%	51%	70%
Male	When genuine item Price is to high	42%	59%	58%	41%	29%	23%	31%	67%
	When quality not important	41%	60%	57%	38%	27%	21%	27%	71%
	When counterfeit of luxury products	39%	53%	57%	39%	27%	16%	25%	69%
	Counterfeit purchases act of protest	60%	62%	72%	63%	56%	47%	55%	73%

F. TRUST IMPACT OF SOCIAL MEDIA INFLUENCER ENDORSEMENTS

The impact of SMI endorsements on consumer trust is assessed using the three dimensions in Table No.4. The respondents were asked whether SMIs must have tried the genuine they recommend, and whether a recommendation means the product must be safe. The respondents also indicated whether endorsements influence their decisions to buy products.

TABLE NO. 4 TRUST IMPACTS OF SOCIAL MEDIA INFLUENCERS

	Influence	Age Range						Bought SMI	
		Counterfeits						No	Yes
		All	16-24	25-33	34-42	43-51	52-60		
Overall	SMIs must have tried products	35%	46%	43%	37%	27%	23%	26%	66%
	Products must be safe	30%	40%	40%	34%	23%	16%	19%	68%
	More likely to buy products	38%	45%	44%	40%	34%	26%	32%	58%
Female	SMIs must have tried products	29%	39%	33%	32%	22%	20%	24%	62%
	Products must be safe	23%	34%	28%	24%	18%	11%	17%	61%
Male	More likely to buy products	35%	48%	43%	34%	27%	24%	31%	59%
	SMIs must have tried products	41%	52%	53%	42%	31%	27%	29%	68%
	Products must be safe	38%	45%	52%	43%	27%	20%	23%	71%
	More likely to buy products	41%	43%	45%	46%	42%	30%	34%	58%

Overall, SMI endorsements cause about one-third of consumers to infer that the influencers must have evaluated products (35%) and that they must be safe (30%). About one-third (38%) are more likely to buy genuine items due to the recommendations. The age, gender and buyer results follow the familiar pattern. The difference in the results for the non-buyer and buyer groups illustrates the extent to which buyers trust influencers. Overall, the buyers are three times as likely to believe that SMIs evaluate products (66%), three times as likely to believe the products are safe (68%), and twice as likely to buy them (58%).²¹

²¹ Supra note 19 P.1754.

V. SOCIAL MEDIA INFLUENCERS IN INDIA ARE SUBJECT TO EXISTING RULES AND REGULATIONS

While India is among the foremost nations to introduce strict compliance requirements for influencer advertising in the digital space, given that both the ASCI Guidelines and the Misleading advertisements guidelines are quite recent, and assessment and jurisprudence of their impact, implementation and enforcement will be clear with time. In the meantime, it is recommended that organization engaging influencer for marketing their products or services, should ensure that such influencer abide by the requirements at all times prescribed under the guidelines, the misleading advertisement guidelines, and any other guidance/regulation issued in this regard.

1) CONSUMER PROTECTION ACT 2019

The consumer protection plays a significant role in influencer marketing in India to safeguard the interest and rights of consumers. The primary legislation in this domain is the consumer protection Act 2019 it was replacement for the Consumer Protection Act, of 1986 was introduced by the Indian government on **August 9, 2019**. The act establishes consumer rights and outlines the responsibilities of business and influencers in ensuring fair trade practices.²² In comparison to the previous act, some rules that addressed deceptive advertising and celebrity endorsements (including those by social media influencers) were included. Additionally, this legislation places a focus on influencer marketing and tailored advertising. Following the act's requirements, if an influencer knowingly misrepresented a product while being unaware that it was a sponsored advertisement, fans may bring a lawsuit against the influencer.²³

2) CENTRAL CONSUMER PROTECTION AUTHORITY, 2020

The Government of India decided that passing laws to protect consumer interests was far from sufficient after introducing the Consumer Protection Act

22 Influencer Marketing Landscape In India, A must-read Guide for Brands and Influencer, August 11 2023, available at: <https://www.rassociates.in/legal-considerations-for-influencer-marketing-in-india/> (accessed on 17th September 2024).

23 Shantanu Shah et al Associates, Social Media Influencers: Boon or Bane?, MARCH 3RD, 2020, available at: <https://www.legal500.com/developments/thought-leadership/social-media-influencers-boon-or-bane/> (accessed on 15th September 2024).

2019 (CPA). Therefore, to keep an eye on all types of advertisements and advertisers regardless of the medium being utilized, the Ministry of consumer affairs developed a regulation on the avoidance of misleading advertisements and unnecessary due diligence for endorsement of commercials. With 265 million active YouTube users in India, it has become difficult for the relevant ministry to monitor consumer interests as numerous micro-influencers advertise products solely for financial gain, disregarding the interests of the consumers. Consequently, it has been mandated to undertake due before making any product recommendations or advertisements exercise caution.²⁴

3) THE CODE FOR SELF-REGULATION OF ADVERTISING

The Advertising Standards Council of India (ASCI) has released the Guidelines for Influencer Advertising in Digital Media, (“Guidelines”). This is to enable consumers to identify when influencers are deriving some benefit for promoting a product, and for influencing opinions and behaviours. These Guidelines prescribe stringent disclosure requirements for influencers, place obligations on advertisers and influencers.²⁵ The ASCI has established the code for self-regulation with the ultimate goal of safeguarding consumer interests and achieving the acceptability of fair advertising practices. Regarding the legitimacy of the advertising content, rules, and restrictions have been established under the code. Additionally, the ASCI is developing several disclosure guidelines for online influencers that promote items on social media. These laws and regulations are also framed by certain international standards²⁶.

4) RECENT DEVELOPMENTS:

The world of advertising in India has taken a crucial step towards transparency and consumer protection, The Department of Consumer Affairs (DOCA) in January 2023 released ‘*Endorsement Know-hows*’, which provide details of disclosure requirements applicable to celebrities, influencers, and virtual influencers on social media platforms. In August 2023, DOCA released an

24 Karan Gautam, Exploring the legal challenges of regulating social media influencers and influencers marketing July 21st 2023, available at: <https://legalvidhiya.com/exploring-the-legal-challenges-of-regulating-social-media-influencers-and-influencer-marketing/>(accessed on 19th September 2024).

25 Tanisha Khanna, etal Social Media vs. Reality (Check): ASCI’s New Influencer Guidelines, July 12, 2021 available at: <https://natlawreview.com/article/social-media-vs-reality-check-asci-s-new-influencer-guidelines> (accessed on 21st September 2024)..

26 Supra Note. 24.

additional set of guidelines, which provide for incremental disclosure or disclaimer requirements for qualified health sector professional or health influencer, respectively. Further ASCI has amended provides for additional compliance by influencers operating in the banking, financial services, and insurance space, such as requirement of qualifications and credentials if influencers wish to offer investments related or financial advice.²⁷

5) CCPA GIVING IMPETUS TO ASCI GUIDLENES

Subsequent to the guidelines, the central Consumer Protection Authority (CCPA) via its powers under the Consumer Protection Act, 2019 (CPA) released the Guidelines for Prevention of Misleading Advisements and Endorsement for Misleading Advertisement, 2022 (“Misleading Advertisement Guidelines”). While the CPA already contains general provisions for prevention of misleading advertisements, the Misleading Advertisement Guidelines expand the scope of the existing provisions by setting provisions by setting out detailed parameters of advertisements that are permissible or prohibited.²⁸ In case of Non-compliance with the misleading advertisement guidelines, the CCPA may impose a penalty of up to INR 10 lakh on manufactures, advertisers, and endorsers for issuance of misleading advertisements, as has been provided under section 21 of the consumer protection Act, 2019. For any subsequent contraventions, CCPA may impose a penalty of upto INR 50 lakh. Further CCPA can also prohibit the endorser of a misleading advertisement from making any endorsement for upto 1 year and for subsequent contravention, prohibition can extent up to 3years.²⁹

Significant case: Marico Limited v. Abhijeet Bhansali 2019 Is Parachute Coconut Oil 100% Pure? a YouTube video, had recently received a landmark ruling from the Bombay High Court. Using the pseudonym “Bearded Chokra” by YouTuber Abhijeet Bhansali.³⁰

27 Sumit G and Sughan B, The Regulatory Evolution of Influencer Advertisement in India, 19th October 2023, available at: <https://www.mondaq.com/india/social-media/1379112/the-regulatory-evolution-of-influencer-advertising-in-india>. (accessed on 21st September 2024).

28 Supra note 24.

29 Sumit G and Sughan B, The Regulatory Evolution of Influencer Advertisement in India, 19th October 2023, Available at: <https://www.mondaq.com/india/social-media/1379112/the-regulatory-evolution-of-influencer-advertising-in-india>. (accessed on 21st September 2024).

30 Marico Limited v. Abhijeet Bhansali 2019 2020 (81) PTC 244 (Bom).

VI. IMPACT OF THE NEW RULES ON SOCIAL MEDIA INFLUENCERS

The new rules concerning social media influencers have significantly impact the industry. With stricter guidelines and regulations, influencers must take extra caution when promoting or endorsing products and services. Companies must also be aware of the implications of their relationship with influencers, ensuring that their content complies with the new regulations. This has led to an increased focus on transparency and authenticity regarding influencers and their content. With these new rules in place, influencer can no longer rely on disingenuous endorsements and will have to work harder to maintain trust with their audience. Ultimately, the new rules have resulted in higher standards for social media influencers and the companies they work with, providing a win-win situation for all involved.³¹

VII. INFLUENCER MARKETING REGULATIONS AND ETHICS: GLOBAL PRESPECTIVE

The regulators around the world have understood the need for protecting the interests of consumers and influencers alike. There are various advertising legislations and standards that have been implemented around the world. Below is a quick glance at the influencer marketing regulations of some countries

Sl. No	Country	Regulator	Governing Regulation	Mandatory requirements Run Through	Useful resource
1.	India	The Advertising Standards Council of India (ASCI)	Guidelines for Influencer Advertising in Digital Media	<ul style="list-style-type: none">• Compliance obligations on both influencers and advertisers;• If the advertiser has a 'material connection' with the influencer, they must ensure that the ad is compliant with ASCI's Code for Self-Regulation of Advertising Content in India and the Guidelines;• Material Connection' includes cash, free products, discounts, gifts, trips, hotel stays, awards, media coverage, an employment offer, etc. Even if an influencer is	https://www.ascionline.in/images/pdf/guidelines-for-influencer-advertising-in-digital-media-final.pdf .

31 Paravien Raj, New Guidelines for Social Media Influencers, April 11 2023, available at: <https://vakilsearch.com/blog/new-guidelines-for-social-media-influencers/>. (accessed on 21st September 2024).

				<p>not specifically asked to speak about a product and provides an unbiased opinion, they would need to disclose the post as an ad if there is a material connection</p> <ul style="list-style-type: none"> • Disclosures must have clear and unambiguous labeling. Like the US influencer law, disclosures must be hard to miss by consumers. • Guidelines go a step further to state that influencers must conduct their own due diligence and ensure that advertisers can back up the claims they are making regarding the product. 	
2.	USA	Federal Trade Commission (FTC)	FTC's Endorsement Guidelines	<ul style="list-style-type: none"> • Influencer's responsibility to be aware of their duties and disclose when necessary; • Influencers must disclose when they have any financial, personal, employment, or family relationship with the brand – financial relationship does not only mean money. Even products given for equivalent value are counted; • Even if posted by someone residing outside the US and foreseeable that the US audience will be viewing the post, this law applies. • Disclosure rules: disclosures must be hard to miss and prominently placed under the post; in simple and clear language, bold font; disclosures must be the first thing that users see. 	https://www.ftc.gov/system/files/documents/plain-language/1001a-influencer-guide-508_1.pdf
3.	U.K.	<p>a. The UK Advertising Standards Authority (ASA);</p> <p>b. The Competition and Markets Authority (CMA);</p> <p>c. The Committee of Advertising Practice (CAP).</p>	UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (the CAP Code); and The Consumer Protection from Unfair Trading Regulations 2008 (CPRs)	<ul style="list-style-type: none"> • Brand has to have some level of 'control' on an influencer's post for it to be counted as an ad under the CAP Code; • Sponsored ads' where an influencer receives freebies, gifts, free visits to the store, etc. instead of cash, are <i>not subject to the CAP Code</i>; • Ads must be obviously identifiable as ads and endorsements (prominent and clear labeling of posts); • Consumers have to know that the ads are 'paid for'; • Make sure you are aware of the industry rules applicable to you when advertising products like food and supplements, or age-restricted products like alcohol or gambling 	https://www.asa.org.uk/statistical/uploaded/3af39c72-76e1-4a59-b2b47e81a034cd1d.pdf

4.	France	Autorité de Régulation Professionnelle de la Publicité (ARPP).	ARPP's Digital Advertising and Marketing Code.	<ul style="list-style-type: none"> • Brand must have editorial control over the post. Influencers should be receiving monetary compensation in return; • It must be noted here that, even where the advertiser does not have 'control' over the post and the influencer is not 'promoting' the product per se, the post must clarify the kind of commercial relationship between the parties; • Marketing communications must be clearly distinguishable. Must carry French labeling at the beginning of each post. 	https://www.arpp.org/nous-consulter/regles/regles-de-deontologie/digital-advertising-and-marketing-communications-code/
5.		<p>a. The Australian Association of National Advertisers (AANA);</p> <p>b. The Australian Competition and Consumer Commission (ACCC)</p>	AANA's Code of Ethics Best Practices Guidelines	<ul style="list-style-type: none"> • The Code and its penalizing provisions are applicable to advertisers only. Influencers only have a duty to include appropriate labeling under their posts. The Code only applies to influencer's when they are advertising their own products (because in this case, they are advertisers as well); • Disclosures must stand out and use appropriate hashtags. 	https://mba-lawyers.com.au/australian-social-media-influencers-now-required-to-disclose-advertising/

VIII. CONCLUSION

This paper finally concluded and reviewed huge amount of literature available to completion of my paper, no doubt that the social media influencer are played important role in the marketing landscape. In India social media influencers have a massive influence on people and since different age groups can access social media, strict guidelines there must have transparency. Currently, influencer marketing is in its nascent stage and swift changing the advertising parameters. The new rules for these influencers are essential to ensure their partnerships with brands are successful, ethical and beneficial for all parties involved. As the industry evolves, influencer must be mindful of their reasonability and adhere to the new rules. By doing so brands will better understand the value that influencers bring to their campaigns and social media influencers will be better equipped to excel in the industry.



32 Sriranjini Garegrat, Regulatory concerns and rights available for social media influencers under the law, August, 18, 2012.

Microplastic Contamination from Plastic Utensils: A Legal Analysis of Indian Regulatory Frameworks



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Microplastic Contamination from Plastic Utensils: A Legal Analysis of Indian Regulatory Frameworks

- Mr. Sanjay Utagi & Ms. Shivani Dutta

ABSTRACT

Microplastic residues in food which are produced by the food industry largely due to the increased use of plastic containers and excessive disposal of plastic waste in the environment is a serious cause of concern which needs immediate attention. These tiny plastic particles have infiltrated a variety of food products, from packaged snacks, beverages served in plastic cups, sealed plastic bottles. The widespread presence of microplastics in the food chain raises serious concerns about potential health risks for consumers, including toxicity, hormone disruption, and other long-term effects which are under scientific research. Given the potential risks involved it is urgently needed to assess these risks and provide relief to consumers from the risks posed by microplastics in their food.

Due to lack of awareness about the issue, Indian regulations are fragmented and ineffective in mitigating the risks posed by microplastics in the food supply chain. The objective of the present research is to critically examine the legal framework related to the problem of microplastic contamination of food products from the use of plastic containers in India. The paper conducts a comparative analysis of the legal protections available in developed countries against microplastics in food. It is from these international perspectives that useful pointers arise in terms of best practices and gaps in India's regulatory approach.

This article highlights the fact that India currently needs stringent food safety legislation, stricter regulations and strengthened enforcement mechanisms to protect consumers from microplastic contamination. This paper is hoped to advance the current debate on food safety, particularly by calling for comprehensive reforms in the legal system in India towards safe consumption of food for better public health outcomes.

Key Words: Food Safety, Microplastic, Plastic residues, Health, Consumer protection

I. INTRODUCTION

Microplastics and nanoplastics, small plastic particles, are found in various food items and ecosystems, contributing to significant health risks. The widespread use of disposable plastic items in fast food, packaging, and at home exacerbates this issue. Aquatic organisms consume these plastics, allowing them to enter the human body through the food chain. Despite India's efforts to control plastic use, the regulations are insufficient in addressing microplastic contamination. This article critically reviews these regulations and highlights the need for a balanced approach to managing economic development and environmental sustainability in India. All over the world, the problem of plastic residues in food is one of the major concerns, which is perceived to be one of the global and complex challenges concerning food safety. Microplastics and nano plastics are major contributors for the plastic pollution of the food. Microplastics are plastic particles smaller than 5 millimetres in size, produced either intentionally or through the breakdown of larger plastic objects, and these residues pose serious health risks through their persistence and accumulation in the ecosystem.¹ Nanoplastics on the other hand are tiny plastic particles that range in size from 1 to 1000 nanometers (nm). They are a subcategory of microplastics, which range between 1 and 1000 micrometers (μm) in size.²

Microplastics and nano plastics have been detected in various ecosystems and food sources, raising significant concerns about their potential health effects on humans. A major contributor to this pollution is the widespread use of plastic utensils and containers such as cups, plates, spoons, covers and packaging items which is cost effective and easy to use, however, the adverse effects of its rampant use is overlooked, firstly due to lack of systematic study and secondly, the convenience of using it. Although it cannot be said that the

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- 1 Mathew JT and others, "General Introduction of Microplastic: Uses, Types, and Generation," *Microplastic pollution* (2024) available at: https://doi.org/10.1007/978-981-99-8357-5_1 (accessed on 18th September 2024).
 - 2 Mattsson K and others, "Nanoplastics in Aquatic Environments—Sources, Sampling Techniques, and Identification Methods," *Elsevier eBooks* (2024) available at: <https://doi.org/10.1016/b978-0-443-15332-7.00003-x> (accessed on 19th September 2024).

harmful effects of plastics is not known to the public, however when it comes to using it for convenience, people tend to ignore it. There are various ways of the microplastics entering into the human body, one is through direct consumption of food in such utensils, secondly through the consumption of meat of the aquatic organisms who consume the plastics which are released into the water bodies. This process is not only alarming for the health of the humans, also to strike a balance between the flora and the fauna.

As a developing country, India faces significant challenges in addressing the issue of micro and nano plastics due to limited public awareness and lack of comprehensive regulatory frameworks. Although efforts are underway to control plastic production and consumption, these initiatives have not been enough to stem the growing problem of microplastic pollution. In the current scenario there is a lack of any legislation in India to regulate the possible plastic residues in food. While some of the countries have acknowledged the threat which may arise due to the consumption of microplastics, yet the rules are still at a nascent stage. Although there are international standards which focus primarily on reducing the environmental impacts of microplastic pollution however, the area of food safety seems to be ignored. These legal regulations vary widely depending on the level of concern, economic priorities and regulatory capacities of different regions. This gap highlights the immediate attention which needs to be focused to tackle microplastics from a food safety perspective.

The aim of this present piece is to critically review the entry of microplastics through the food chain using plastic containers with a focus on comparative legal analysis of Indian and global standards and regulatory frameworks on plastics in food-related applications. The article highlights how effective the existing policies are and what aspects need improvement. It is planned to provide insights on how legal frameworks can respond to the health and environmental risks posed by microplastics, especially for countries like India that have to find a delicate balance between economic development and environmental sustainability.

II. MICROPLASTICS AND FOOD SAFETY

Microplastics enter water sources through various pathways, including wastewater, industrial runoff, and air currents.³ Point sources such as landfills and industrial effluent also contribute significantly, with microplastics being distributed globally through air and water currents.⁴ Plastic packaging, food containers, and clothing fibres further contribute to this pollution. Research shows that crops absorb nano plastics, and certain vegetables, especially root vegetables, can accumulate these particles, leading to human ingestion. Microplastics also break down from packaging materials, entering food and posing potential health risks. Studies indicate that ingestion of these particles can disrupt digestion, alter the gut microbiome, and increase the risk of diseases such as cancer and cardiovascular issues. Despite these concerns, there is still limited research on the full extent of microplastic exposure and its impact on health. Additionally, packaging materials, processing techniques, and transport methods can introduce microplastics into drinking water. Commercial salts and clothing fibres released during washing further add to this contamination⁵. Tire and road wear, as well as atmospheric deposition, pose further hazards by facilitating the chemical transfer and adsorption of pollutants, increasing human exposure over time. Microplastics also enter water sources from rivers, reservoirs, and lakes, with higher abundance during the wet season, further increasing human exposure.⁶ As these plastics break down, microplastic particles are released into surrounding water bodies, further exacerbating plastic contamination in aquatic ecosystems. Once in the water, microplastics can enter the seafood supply chain through ingestion by

3 Bhardwaj LK, "MICROPLASTICS (MPS) IN DRINKING WATER: USES, SOURCES AND TRANSPORT," *Futuristic Trends in Agriculture Engineering & Food Sciences Volume 2 Book 9* (2023) available at: <https://doi.org/10.58532/v2bs9ch28>. (accessed on 17th September 2024).

4 Chandra S and Walsh KB, "Microplastics in Water: Occurrence, Fate and Removal" [2024] *Journal of Contaminant Hydrology* 104360 available at: <https://doi.org/10.1016/j.jconhyd.2024.104360> (accessed 17th September 2024)

5 Adikari MU, Prasadi N and Jayasinghe CVL, "Microplastics in Salt and Drinking Water" [2023] *Microplastics in Salt and Drinking Water* 357 available at: <https://doi.org/10.1002/9781119879534.ch21> (accessed on 9th September 2024).

6 Sun X and others, "Microplastic Transportation in a Typical Drinking Water Supply: From Raw Water to Household Water" (2024) *16 Water* 1567 available at: <https://doi.org/10.3390/w16111567> (accessed on 8th September 2024).

fish⁷ and other marine organisms, or via contamination during processing and packaging, potentially impacting seafood safety and human health.

Recent research has shown that crops are capable of absorbing nano plastic particles—tiny fragments measuring between 1-100nm in size, or 1,000 to 100 times smaller than a human blood cell—from surrounding water and soil through small cracks in their roots.⁸ Analysis reveals that most of these plastic particles accumulate in the plant’s roots, with only a minimal amount traveling to the shoots. According to Peijnenburg, the concentration of plastics in leaves is well below 1%, suggesting that leafy vegetables such as lettuce and cabbage are relatively low-risk in terms of microplastic contamination. However, for root vegetables like carrots, radishes, and turnips, the risk of consuming microplastics is significantly higher, as these particles tend to remain concentrated in the roots. Consequently, these microplastics can enter the human body when individuals consume contaminated vegetables, raising concerns about potential health impacts.⁹

Microplastics can enter the human food chain through the plastic packaging materials also.¹⁰ Items such as plastic bottles, food containers, and wrappings used in packaging often break down over time, releasing microplastic particles into food. These particles may leach into the contents, especially when packaging is exposed to heat or stress, increasing the likelihood of ingestion.

III. POSSIBLE RISKS ASSOCIATED WITH INGESTION OF MICROPLASTICS IN FOOD

Microplastics have been found in human blood and brain tissue, raising alarms about their long-term effects. Studies suggest that microplastics can cause

7 Lusher AL and Covernton GA, “Microplastics in Fish and Seafood Species” [2022] *Microplastics in Fish and Seafood Species* 367 available at: <https://doi.org/10.1002/9781119768432.ch13> (accessed on 9th September 2024).

8 BBC News, ‘How Plastic Is Getting into Our Food’ (BBC Future, 3 January 2023) <https://www.bbc.com/future/article/20230103-how-plastic-is-getting-into-our-food> (accessed on 18 September 2024).

9 Gerretsen I, “How Microplastics Are Infiltrating the Food You Eat” (January 5, 2023) available at: <https://www.bbc.com/future/article/20230103-how-plastic-is-getting-into-our-food> (accessed on 18th September 2024).

10 Eze CG and others, “Food Chain Microplastics Contamination and Impact on Human Health: A Review” (2024) 22 *Environmental Chemistry Letters* 1889 available at: <https://doi.org/10.1007/s10311-024-01734-2> (accessed on 18th September 2024).

damage to DNA, disrupt hormones, and increase the risk of diseases like breast cancer. Furthermore, they may cause heart problems and respiratory diseases, with recent studies linking microplastics in arterial plaque to increased cardiovascular risks.¹¹ Plastics used for food and drink packaging can break down into tiny pieces i.e. microplastics over time. These microplastics can end up in our food, which might be harmful. Many chemicals in plastics, like Bisphenol A (BPA), can mess with hormones in our bodies. BPA, for example, can interfere with hormones that are important for reproductive health, potentially causing issues like infertility and polycystic ovary syndrome (PCOS).¹² Studies on human cell cultures and rodents suggest that microplastics can lead to cellular damage, DNA damage, and neurotoxic effects.¹³

The discovery of microplastics in human blood in 2022 raised significant concerns about the extent of plastic pollution and its impact on human health. More recently, scientists have found evidence of microplastics in the brain, which is alarming given the potential risks to neurological functions. To put this in perspective, it is estimated that an average person consumes, inhales, or ingests between 78,000 and 211,000 microplastic particles annually through food, water, and the air.¹⁴ Recent studies have begun to explore the impact of microplastics on human health, revealing that these particles can alter intestinal permeability and disrupt digestion. Preliminary findings suggest that microplastics may shift the gut microbiome towards an unhealthy state,

11 Prathipa R, "Impact of Microplastics on Human Health: A Comprehensive Review" (2024) 3 *Journal of Preventive Diagnostic and Treatment Strategies in Medicine* 76 available at: https://doi.org/10.4103/jpdtm.jpdtm_24_24 (accessed on 18th September 2024).

12 Rdn ACAM, "What Do We Know about Microplastics in Food?" *Medical News Today* (February 18, 2022) available at: <https://www.medicalnewstoday.com/articles/what-do-we-know-about-microplastics-in-food#How-to-minimize-exposure> (accessed on 18th September 2024).

13 UCHHealth, "Microplastics are everywhere: From water to food – what are the health impacts?" (UCHHealth, 23 June 2023) available at: <https://www.uchealth.org/today/microplastics-are-everywhere-from-water-to-food-what-are-the-health-impacts/> (accessed on 17th September 2024).

14 "Microplastics: Are We Facing a New Health Crisis – and What Can Be Done about It?" (World Economic Forum, September 10, 2024) available at: <https://www.weforum.org/agenda/2024/09/how-microplastics-get-into-the-food-chain/> (accessed on 18th September 2024).

potentially affecting critical bodily processes such as immune function, weight regulation, and even heart and brain health.¹⁵ The presence of microplastics in food, particularly in processed foods, canned goods, and infant milk powder, raises significant concerns about potential health risks. One area of growing concern is the potential link between the ingestion of microplastics and the increased risk of diseases like breast cancer.¹⁶ The ingestion of these particles through everyday foods could have long-term health implications, warranting further research to understand the full extent of their impact on human health, especially in vulnerable populations such as infants and those with compromised health conditions. Consumption of foods exposed to migrating plastic monomers from packaging materials can potentially lead to health risks, including cancer, due to the accumulation of these monomers in the body.¹⁷ Frequent exposure to microplastics in food can pose significant health risks, including respiratory diseases and a potential link to lung cancer.¹⁸

Further the microplastics and nano plastics in food can cause heart related problems. Microplastics and nano plastics can induce cardiac fibrosis and oxidative stress, affecting the cardiovascular system. Their presence in food raises concerns about potential impacts on heart health.¹⁹ A groundbreaking study has unveiled the presence of microplastics in arterial plaque within humans, raising significant concerns about cardiovascular health. Researchers discovered a correlation between these microplastics and an elevated risk of heart attack, stroke, and mortality. While these findings are alarming and

15 Guy A, "How Do Microplastics Impact Our Gut Health?" (*Food Revolution Network*, May 13, 2024) available at: <https://foodrevolution.org/blog/microplastics-health-effects/> (accessed on 15th September 2024).

16 "Impact of Microplastics on Human Health: A Comprehensive Review" (2024) 3 *Journal of Preventive Diagnostic and Treatment Strategies in Medicine* 76 available at: https://doi.org/10.4103/jpdtsm.jpdtm_24_24 (accessed on 12 September 2024).

17 Siddiqui SA and others, "Migration of Microplastics from Plastic Packaging into Foods and Its Potential Threats on Human Health" [2023] *Advances in Food and Nutrition Research* 313 available at: <https://doi.org/10.1016/bs.afnr.2022.07.002> (accessed on 11th September 2024).

18 Senarath S and Kaushalya D, "Management of Microplastics from Sources to Humans" [2023] 391 available at: <https://doi.org/10.1002/9781119879534.ch24> (accessed on 18th September 2024).

19 Chowdhury SR and others, "Environmental Microplastics and Nanoplastics: Effects on Cardiovascular System" (2024) 36 *Annales De Toxicologie Analytique* 145 available at: <https://doi.org/10.1016/j.toxac.2023.11.006> (accessed on 18th October 2024).

suggest a potential health risk, it's crucial to note that the study does not establish a direct causal relationship. Over an average period of 34 months following surgery, patients with microplastics in their arterial plaque faced a significantly higher risk of severe cardiovascular health outcomes. Specifically, these patients were 4.5 times more likely to experience incidents such as heart attacks, strokes, or death compared to those whose arteries did not contain microplastics.²⁰ A deeper research is necessary to delve into this association and determine whether microplastics directly contribute to cardiovascular diseases or if other factors are at play.

IV. THE INDIAN LEGAL FRAMEWORK ON THE MICROPLASTIC RESIDUES IN FOOD

India's Food Safety and Standards Authority (FSSAI) has established regulations for food-grade packaging materials, but they do not address microplastic contamination. Similarly, the Plastic Waste Management Rules, 2016, focus on environmental impacts rather than food safety, leaving a regulatory gap. The National Policy on Solid Waste Management promotes plastic reduction but does not explicitly cover the risks posed by microplastics in food.

The Food Safety and Standards Act of India has been enacted to consolidate and modernize the legal framework governing food safety in the country. It establishes the Food Safety and Standards Authority of India (FSSAI), which is responsible for setting science-based standards for food products. This Act aims to regulate various aspects of food production, including the manufacture, storage, distribution, sale, and import of food items, ensuring that only safe and wholesome food reaches consumers.²¹ Food Authority or Food Safety and Standards Authority of India is a specialized agency established under the FSSAI Act. The Food Safety and Standards Authority of India (FSSAI), through its periodic updates to food safety regulations, ensures that India's food safety framework remains dynamic and responsive to changing needs. By consistently harmonizing these regulations with international

20 Mammoser G, "Microplastics Linked to Increased Risk for Heart Attack, Stroke, Study Finds" Healthline (March 12, 2024) available at: <https://www.healthline.com/health-news/microplastics-linked-to-increased-risk-for-heart-attack-stroke-study-finds#60%-of-patients-had-microplastics-in-arteries> (accessed on 18th September 2024).

21 Food Safety and Standards Act 2006 (India), Act No. 34 of 2006, preamble.

standards and incorporating global best practices, the FSSAI plays a vital role in safeguarding public health.

The Food Safety and Standards (Packaging) Regulations, 2018,²² introduced by the FSSAI, came into effect on July 1, 2019, to ensure that all packaging materials in contact with food are of food-grade quality. According to these regulations, all materials in direct or potential contact with food—used for packaging, preparation, storage, wrapping, transportation, or sale—must be of food-grade quality. These materials must be capable of withstanding mechanical, chemical, or thermal stresses typically encountered during normal transportation to ensure the safety and integrity of food products.²³ For plastic materials intended for contact with food articles, specific migration limits have been established for various substances to ensure consumer protection. The maximum allowable migration limits are defined for the chemicals such as Barium, Cobalt, Copper, Lithium etc., However, the regulations do not address the issue of Microplastics.

Another legislation, that is, The Plastic Waste Management Rules, 2016, stipulate that carry bags and plastic packaging must either be in their natural shade, without any added pigments, or made using only those pigments and colorants that conform to the Indian Standard IS 9833:1981. This standard, titled “*List of pigments and colorants for use in plastics in contact with foodstuffs, pharmaceuticals, and drinking water*”, is subject to amendments from time to time. Additionally, the rules strictly prohibit the use of carry bags made from recycled plastic, or any products made from recycled plastic, for storing, carrying, dispensing, or packaging ready-to-eat or ready-to-drink food items.²⁴ Although Rule 4 of The Plastic Waste Management Rules, 2016 (India) outlines the responsibilities for managing plastic waste, its focus is predominantly on environmental concerns, such as minimizing plastic use and promoting recycling. The Rules, however is silent on the issue of microplastics in food. Despite the growing concerns about microplastic contamination in the food chain, particularly through the use of plastic utensils, there seems to be lack of regulatory framework to explicitly address this emerging threat ultimately risking the public health at large.

22 Food Safety and Standards (Packaging) Regulations 2018 (India).

23 Food Safety and Standards (Packaging) Regulations 2018 (India), Regulation 3.

24 The Plastic Waste Management Rules 2016, r 4 (India).

The National Policy on Solid Waste Management²⁵ in India is a comprehensive legislation which addresses various aspects of solid waste, including plastic waste, primarily focuses on segregation, collection, recycling, and disposal of waste. The policy encourages a reduction in plastic use, promoting alternatives and extended producer responsibility (EPR) to manage plastic waste more efficiently. However, similar to the Plastic Waste Management Rules, 2016, the National Policy does not explicitly cover the risks posed by microplastics, especially their presence in food.

V. SCENARIO IN USA

Even in the United States there is lack of standardized methods to detect or quantify microplastics. The Food and Drug Administration (FDA) monitors the ongoing research and can take regulatory action if evidence suggests microplastics adversely affecting health, however, there are no specific regulations targeting microplastics in food at present. The FDA continues to monitor the research on microplastics and nano plastics. If the FDA determines, based on scientific evidence, that microplastics or nano plastics in food, including packaged food and beverages, adversely affect human health, the FDA can take regulatory action to protect public health.²⁶

VI. CONCLUSION

In conclusion, microplastics and nanoplastics pose a serious threat to human health and environmental sustainability, especially in food. While regulations in both India and the United States focus on broader environmental impacts, they fall short of addressing microplastic contamination in food. India's FSSAI launched a 2024 initiative²⁷ to develop methods to detect microplastics, but global efforts should focus on banning certain plastics and setting residue limits for packaging and containers. A comprehensive approach is needed to protect food safety and reduce the threats of plastic pollution.

25 Ministry of Environment, Forest and Climate Change, Policy on Waste Management (Government of India, 2019) available at: https://www.mospi.gov.in/sites/default/files/main_menu/Seminar/Policy%20on%20Waste%20Management%20-%20MOEFCC.pdf (accessed on 18th September 2024).

26 FDA, 'Microplastics and Nanoplastics in Foods' (US Food and Drug Administration, 2024) available at: <https://www.fda.gov/food/environmental-contaminants-food/microplastics-and-nanoplastics-foods> (accessed on 18th September 2024).

27 "FSSAI Launches Project to Address Microplastic Contamination in Indian Food" <<https://pib.gov.in/PressReleaseIframePage.aspx?PRID=2046403>>. (accessed on 12th September 2024).

Securing The Future: The Economics behind Parental Preferences for Safe Consumer Products



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Securing The Future: The Economics behind Parental Preferences for Safe Consumer Products

- Dr. Anju Harbansh

ABSTRACT:

In an increasingly complex consumer landscape, parents play a pivotal role in ensuring the safety and well-being of their children through their purchasing decisions. This article delves into the economic factors that influence parental preferences for safe consumer products, examining how risk perception, trust in brands, price sensitivity, and information availability shape these decisions. Utilizing a behavioral economics framework, the analysis explores how parents weigh the trade-offs between cost and safety, often prioritizing products that promise higher safety standards despite potentially higher prices.

The article further investigates the impact of socio-economic status, education, and access to information on parental decision-making. Parents from higher income and education brackets are found to be more inclined towards purchasing premium, safety-certified products, while those with limited resources may face challenges in accessing the safest options. The role of marketing and product labeling in influencing parental trust and perceived product safety is also critically examined, highlighting how companies leverage safety concerns to drive consumer behavior.

By understanding these dynamics, the article provides insights into the broader implications for consumer markets, public policy, and corporate responsibility. It argues for more stringent safety regulations and transparent labeling practices to empower parents in making informed decisions, ultimately contributing to the development of safer consumer markets. This economic analysis not only underscores the importance of product safety in parental decision-making but also calls for a more inclusive approach that considers the diverse economic realities of families.

Keywords: Parental Decision-Making, Product Safety, Behavioral Economics, Consumer Behavior, Risk Perception

I. INTRODUCTION

Parental decision-making in the marketplace is often guided by concerns over the safety and well-being of their children. Whether purchasing toys, food, or personal care products, parents tend to prioritize products that are perceived as safe.¹ This tendency has significant economic implications for both manufacturers and consumers. Parents, as consumers, exhibit a heightened sense of risk aversion when it comes to their children, often opting for products that guarantee safety even if they come at a higher cost². The economics of parental preferences for safe consumer products reveal a demand curve that favors brands and products associated with higher safety standards³. This article explores the underlying economic factors that drive these preferences, analyzing how safety influences parental purchasing decisions, the price elasticity of demand for safe products, and the role of trust in the marketplace.

II. ECONOMIC THEORIES AND CONSUMER BEHAVIOR

Parental preferences for safe consumer products can be understood through various economic theories of consumer behavior, most notably utility maximization and risk aversion. Utility maximization refers to the idea that consumers make purchasing decisions that will maximize their overall satisfaction or utility⁴. For parents, the utility derived from a product extends beyond its functional use and includes the emotional and psychological comfort of knowing that the product is safe for their children. Hence, safety becomes an essential component of the product's perceived value.

Risk aversion, particularly in the context of parents, plays a critical role in shaping consumer behavior. Parents tend to be more risk-averse when it comes

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- 1 Al Kurdi, Barween. (2024). Investigating the Factors Influencing Parent Toy Purchase Decisions: Reasoning and Consequences. *International Business Research*. 10. 104-104. 10.5539/ibr.v10n4p104.
 - 2 Xie X, Tong Z, Xu S. Risk attitudes and household consumption behavior: Evidence from China. *Front Public Health*. 2022 Sep 6;10:922690. doi: 10.3389/fpubh.2022.922690. PMID: 36148355; PMCID: PMC9486208. See also: Thompson, Craig. (2005). Consumer Risk Perceptions in a Community of Reflexive Doubt. *Journal of Consumer Research*. 32. 235-248. 10.1086/432233.
 - 3 Marco Francesconi, James J. Heckman, Child Development and Parental Investment: Introduction, *The Economic Journal*, Volume 126, Issue 596, October 2016, Pages F1–F27, <https://doi.org/10.1111/eoj.12388>. (accessed on 1st September 2024).
 - 4 Salvatore, Consumer Preferences and Choice, Chap03.qxd 08-08-2008 12:41 PM Page 58 available at https://global.oup.com/us/companion.websites/9780195336108/pdf/Salvatore_Chapter_3.pdf (accessed on 1st September 2024).

to products for their children, preferring to avoid even minimal chances of harm⁵. The expected utility theory can help explain this, as parents weigh the potential risks and benefits of products. A safer product provides higher expected utility, even if it comes at a higher price, as it reduces the perceived risk to their child's health and safety.

Parental preferences also align with the behavioral economics framework, which acknowledges that consumers do not always make decisions based solely on rational assessments of cost and benefit. Psychological factors, such as the availability heuristic (where individuals assess the likelihood of risks based on easily recalled examples), can lead parents to overestimate potential dangers. For instance, media reports of harmful products, such as recalls of unsafe toys, may prompt parents to choose products with higher safety ratings, regardless of whether the actual probability of harm is low.

III. IMPACT OF INCOME AND PRICE SENSITIVITY

The relationship between income levels and parental preferences for safe products is multifaceted. Parents with higher disposable income are generally more willing and able to pay a premium for safety, perceiving the additional cost as an investment in their child's well-being.⁶ This aligns with income elasticity of demand⁷, where the demand for superior or safer products increases with rising income levels.

However, price sensitivity remains a concern for parents with lower income levels, as they are less able to afford premium products. This often results in a trade-off between affordability and perceived safety. Studies suggest that low-income parents might opt for generic or lower-cost products out of necessity,

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- 5 Mark Dickie and Shelby Gerking, Valuing Children's Health: Parental Perspectives, Chapter 3 of Economic Valuation of Environmental Health Risks to Children, OECD, 2006 p.121-158 available at: https://www.oecd.org/content/dam/oecd/en/publications/reports/2006/01/economic-valuation-of-environmental-health-risks-to-children_g1gh6971/9789264013988-en.pdf (accessed on 5th September 2024).
 - 6 Hill HD, Morris P, Gennetian LA, Wolf S, Tubbs C. The Consequences of Income Instability for Children's Well-Being. *Child Dev Perspect.* 2013 Jun;7(2):85-90. doi: 10.1111/cdep.12018. Epub 2013 Jan 17. PMID: 33042213; PMCID: PMC7546433.
 - 7 Zhao J, Huang J, Nie F. The Income Elasticities of Food, Calories, and Nutrients in China: A Meta-Analysis. *Nutrients.* 2022 Nov 8;14(22):4711. doi: 10.3390/nu14224711. PMID: 36432397; PMCID: PMC9692904.

despite recognizing potential safety concerns⁸. This discrepancy highlights an equity issue in consumer safety, as wealthier parents can better access and afford safe products, creating a divide in consumer choice based on socioeconomic status.

IV. ROLE OF INFORMATION AND CONSUMER TRUST

Access to information is crucial in shaping parental preferences for safe consumer products⁹. Informed consumers are more likely to make decisions that reflect their preferences for safety. However, the availability and reliability of information can vary. The information asymmetry problem, where producers know more about the product than consumers, often leaves parents relying on branding, certifications, or word-of-mouth recommendations to determine a product's safety. Regulatory bodies and certification agencies play a significant role in bridging this gap, providing assurance through labels and safety standards that signal a product's safety to parents.

Consumer trust is another essential component in the economics of parental preferences. Parents tend to trust established brands¹⁰ or those with clear safety certifications more than lesser-known alternatives. This trust is often built over time through consistent quality and safety records. Economic theory suggests that trust reduces transaction costs and can increase demand, as parents are willing to pay more for a product they believe is reliable and safe.

V. MARKET INCENTIVES AND REGULATORY FRAMEWORKS

The demand for safe consumer products has created market incentives for manufacturers to prioritize safety in their offerings. Companies that invest in safer designs, rigorous testing, and transparent marketing can often command

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- 8 Daniel C. Is healthy eating too expensive?: How low-income parents evaluate the cost of food. *Soc Sci Med.* 2020 Mar;248:112823. doi: 10.1016/j.socscimed.2020.112823. Epub 2020 Jan 31. PMID: 32062569; PMCID: PMC7065490. See Also: Ajay Chaudry, Juan Manuel Pedroza, et.al. *Child Care Choices Of Low-Income Working Families*, Urban Institute, January 2011, available at: <https://www.urban.org/sites/default/files/publication/27331/412343-Child-Care-Choices-of-Low-Income-Working-Families.PDF> (accessed on 28th October 2024).
 - 9 Pakkala, Kavitha & Bhat, K.. (2022). Literature Review on Consumer Perception and Buying Behaviour on Baby Care Products. *International Journal of Management, Technology, and Social Sciences.* 710-735. 10.47992/IJM.TS.2581.6012.0246.
 - 10 Europe Economics, *The Role of Consumer Trust in the Economics of Brands*, October 2015, available at https://www.aim.be/wp-content/themes/aim/pdfs/Brand_Trust_Study_Europe_Economics_061015.pdf (accessed on 10th September 2024).

higher prices and enjoy greater customer loyalty¹¹. However, the market alone cannot guarantee safety; government regulations and industry standards are essential in maintaining product safety across the board.

In many countries, including India, regulatory frameworks like Bureau of Indian Standards (BIS) for safety certifications or the Consumer Protection Act, 2019 ensure that products meet minimum safety standards before entering the market. These regulations are crucial in addressing the market failures that arise from information asymmetry and ensuring that all consumers, regardless of income, have access to safe products.

VI. MARKET INCENTIVES

- 1. Brand Loyalty and Premium Pricing:** Companies that emphasize safety often gain a competitive edge by building strong consumer trust, especially among parents. Once a brand is perceived as prioritizing safety, it enjoys greater customer loyalty, with many parents willing to pay a premium for products that meet or exceed safety standards.¹² For instance, a toy manufacturer that consistently releases safety-certified products free of harmful chemicals is likely to command a higher price than lesser-known or generic brands.¹³ This willingness to pay a premium for peace of mind creates a financial incentive for companies to invest in product safety.
- 2. Product Differentiation:** In a competitive marketplace, safety can be a key differentiator that sets a brand apart from its competitors. Companies that integrate safety features into product designs¹⁴ (such as non-toxic

11 Wai Ki Liang and David Corkindale, 2017. Word of Mouth or Price Matters in Quality Considerations. *Asian Journal of Marketing*, 11: 34-43.

12 Chaudhuri, A., & Holbrook, M. B. (2001). The Chain of Effects from Brand Trust and Brand Affect to Brand Performance: The Role of Brand Loyalty. *Journal of Marketing*, 65(2), 81-93.

13 Rao, V. R., & Monroe, K. B. (1988). "The Effect of Price, Brand Name, and Store Name on Buyers' Perceptions of Product Quality." *Journal of Marketing Research*, 25(3), 351-357.

14 Colin Maynard, Designing safe and sustainable products requires a new approach for chemicals, European Environment Agency, February 2021, available at <https://www.eea.europa.eu/publications/designing-safe-and-sustainable-products-1> (accessed on 12th September 2024)- Applying a safe and sustainable approach to design in products' pre-market design phase can improve product safety, reduce the risks to human and environmental health.

materials, childproof packaging¹⁵, or tamper-resistant elements) can carve out a niche for themselves by appealing to safety-conscious parents. This differentiation not only increases market share but also positions the brand as an industry leader in consumer protection, enhancing its reputation and opening up new markets.

- 3. Risk Mitigation and Long-Term Profitability:** Investing in safety can also protect companies from the financial risks associated with product recalls, lawsuits, and reputational damage.¹⁶ A well-known example In 2007, the large-scale recalls of China-manufactured toys had a significant ripple effect, prompting many U.S.-based charities to reassess their policies on accepting used toys. Organizations like Goodwill ceased accepting toy donations entirely, except for stuffed animals, while other charities adopted stricter protocols, meticulously cross-referencing all toy donations against government-issued safety checklists¹⁷. This example highlights the far-reaching impact of product safety concerns on consumer trust as well as financial risk on companies. The economic costs of such failures, including legal fees, compensatory damages, and loss of consumer trust, far outweigh the costs of implementing safety measures from the outset. As a result, companies recognize that maintaining high safety standards is a form of risk mitigation that ensures long-term profitability.
- 4. Corporate Social Responsibility (CSR) and Ethical Branding:** Safety-conscious companies often incorporate product safety into their broader corporate social responsibility (CSR) strategies. Promoting safety as part of a company's ethical stance appeals to socially aware consumers, particularly parents who value businesses that contribute

15 The CPSC, under the Poison Prevention Packaging Act (PPPA) of 1970, and the U.S. EPA mandate child-resistant packaging (CRP) for certain hazardous household products to prevent serious harm to children under five.

16 Deloitte Legal, The current Challenges of Product Liability and Product Recalls, June 2021, available at <https://www.deloitte.com/content/dam/assets-shared/legacy/docs/services/legal/2022/dttl-product-recalls-article.pdf> (accessed on 23rd September 2024).

17 S.Misra & P Gupta, Toys and Safety Regulations, Centre for Consumer Studies, Indian Institute of Public Administration, 2015.

positively to society.¹⁸ By aligning with values of child welfare and public health, companies not only enhance their brand's ethical profile but also tap into the growing market segment that prioritizes sustainable and socially responsible products.

VII. REGULATORY FRAMEWORKS

While market incentives play a significant role in encouraging companies to prioritize safety, the presence of robust regulatory frameworks is critical to ensuring that safety standards are met across the board. Market forces alone may not be sufficient to guarantee product safety, particularly when companies may be tempted to cut corners to reduce costs. This is where government regulations and industry standards come into play.

- 1. Mandatory Safety Standards:** Regulatory bodies, such as the Bureau of Indian Standards (BIS)¹⁹ in India or the Consumer Product Safety Commission (CPSC) in the United States²⁰ or European Union's Toy

18 Wekesa, Johnson. (2024). Impact of CSR (Corporate Social Responsibility) on Consumer Behavior. *International Journal of Marketing Strategies*. 6. 35-45. 10.47672/ijms.2132.

19 Bureau of Indian Standards, Indian Standards on Toys-Ensuring your Child's Safety, April 30, 2023 available at https://www.services.bis.gov.in/php/BIS_2.0/BISBlog/indian-standards-on-toys-ensuring-your-childs-safety/ (accessed on 15 September 2024)- The Toys Quality Control Order (QCO), 2020, mandates compliance with seven Indian Standards to ensure toy safety, addressing various risks to children. IS 9873 (Part 1): 2019 focuses on physical and mechanical safety, preventing hazards like choking, sharp edges, or finger crushes. IS 9873 (Part 2): 2017 targets flammability, ensuring toys do not easily catch fire. IS 9873 (Parts 3 and 9): 2017 set safe limits for toxic substances like cadmium, mercury, and phthalates. IS 9873 (Part 4): 2016 ensures the safety of activity toys such as swings and slides, while IS 9873 (Part 7): 2017 governs safety standards for finger paints in craft kits. Lastly, IS 15644: 2006 addresses electrical safety requirements for toys, collectively creating a robust framework to protect children from potential hazards.

20 The United States has established a robust framework of mandatory and voluntary toy safety standards to ensure the safety of children's products. Mandatory standards include regulations under the Code of Federal Regulations (16 CFR), marking requirements for toy firearms (15 CFR Part 1150), and engineering test manuals for items such as rattles and pacifiers issued by the U.S. Consumer Product Safety Commission (CPSC). Additionally, labeling requirements under the Labeling of Hazardous Art Materials Act (LHAMA), choking hazard rules under the U.S. Child Safety Protection Act, and age determination guidelines provide comprehensive safety measures. Standards like ASTM F963, which address physical, mechanical, chemical, and flammability specifications, form the

Safety Directive (2009/48/EC) and General Product Safety Regulation (GPSR) in EU²¹, establish mandatory safety standards that manufacturers must adhere to before products enter the market. These standards cover a wide range of safety concerns, including chemical composition, physical design, and durability. For example, children's toys in India must comply with BIS standards regarding the use of non-toxic materials and the absence of small parts that could pose choking hazards. Companies that fail to meet these standards face penalties, product recalls, and potential legal action.

- 2. Product Testing and Certification:** Many countries require rigorous testing and certification for certain categories of products, especially those intended for children. These certifications signal to consumers that the product has undergone stringent safety checks and meets national or international standards. Certification labels, such as CE marking in Europe²² or ISI certification in India²³ or FCC, UL, ETL, and CSA marking in US²⁴, are designed to build consumer trust and reassure

cornerstone of toy safety, with updates effective from 2009. Further Voluntary standards, developed to complement mandatory guidelines, include ASTM specifications for toy chests, home playground equipment, and rubber nipple materials, along with ANSI and UL standards for electric toys and tricycles. Together, these mandatory and voluntary measures establish a thorough safety regime, ensuring that toys are rigorously tested and meet strict safety criteria before reaching consumers.

- 21 The European Union's Toy Safety Directive (2009/48/EC) and General Product Safety Regulation (GPSR) enforce strict safety requirements for children's products. Toys must undergo hazard assessments for chemical, physical, mechanical, and flammability risks, with CE markings and safety warnings. Compliance is ensured through harmonized standards or EC-type examinations by notified bodies when needed. Regulations like REACH restrict hazardous substances, including phthalates, while standards such as EN 1130 (cribs) and EN 1466 (carry cots) mandate rigorous testing, traceability labeling, and safety documentation.
- 22 Your Europe, CE Marking, available at https://europa.eu/youreurope/business/product-requirements/labels-markings/ce-marking/index_en.htm (accessed on 12th October 2024).
- 23 Bureau of Indian Standards, Product Certification Process, available at <https://www.bis.gov.in/product-certification/product-certification-process/> (accessed on 12th October 2024).
- 24 Hydrofarm, UL, CSA, ETL and CE: What do they stand for?, available at <https://www.hydrofarm.com/ul-csa-etl-and-ce> (accessed on 12th October 2024).

parents that the product is safe for use. Certification processes, while costly for manufacturers, act as a safeguard that levels the playing field and ensures that even less well-known brands comply with the same safety criteria as larger companies.

- 3. Consumer Protection Legislation:** Laws such as the Consumer Protection Act 2019²⁵ in India or the Consumer Product Safety Act in the U.S.²⁶ empower regulatory bodies to take swift action against manufacturers that produce unsafe goods. These laws protect consumers from harmful products by ensuring that unsafe items are quickly removed from the market, and companies responsible are held accountable. Additionally, legislation often includes provisions for compensating consumers in the event of harm caused by defective products, further incentivizing manufacturers to adhere to safety standards.
- 4. Periodic Reviews and Updates of Safety Standards:** As technology and manufacturing processes evolve, so do the potential risks associated with consumer products. Regulatory bodies frequently conduct reviews of existing safety standards to account for new risks or emerging threats, such as the growing use of chemicals in manufacturing or the digital safety of connected toys. These reviews

25 The Consumer Protection Act, 2019 (CPA 2019) establishes a comprehensive framework for addressing product liability and misleading advertisements. It enforces strict liability under Section 84(2), holding manufacturers, sellers, and service providers accountable for harm caused by defective products, including defects in design, manufacturing, or inadequate warnings, irrespective of negligence. The Act defines “misleading advertisement” broadly, covering false claims, omissions of critical information, and misrepresentations of quality, labeling, or guarantees. Advertisers, endorsers, and agencies are held accountable for unverified claims unless due diligence is demonstrated. The 2022 Guidelines for Prevention of Misleading Advertisements issued by DoCA and CCPA further strengthen consumer protection by prohibiting unsubstantiated claims, exaggerated promises, and deceptive practices, ensuring accountability, transparency, and fairness in advertisements across all platforms.

26 The U.S. Consumer Product Safety Improvement Act (CPSIA) of 2008 requires stringent third-party testing for toys and children’s products, along with permanent labeling of manufacturer details, tracking information, and safety compliance. It ensures adherence to standards like ASTM F963 and mandates quality controls such as certification testing and production monitoring to enhance consumer safety.

help ensure that regulations keep pace with technological advancements, maintaining high safety standards even in a rapidly changing marketplace.

- 5. Global Harmonization of Standards:** Given the global nature of modern supply chains, harmonizing safety standards across countries is increasingly important. International trade agreements and collaborations between regulatory bodies help align safety requirements, making it easier for manufacturers to comply with multiple jurisdictions and ensuring that products sold globally meet consistent safety benchmarks. The harmonization of standards helps streamline the production process, reduces regulatory burdens on companies, and enhances consumer safety across borders.
- 6. Labeling and Transparency Requirements:** Transparency is a key element in consumer protection²⁷. Regulatory frameworks often require manufacturers to provide clear, accurate labeling regarding the safety features of their products. These labels may include information on materials used, safety certifications obtained, and instructions for safe use. By mandating transparency, regulators help parents make informed decisions and reduce information asymmetry between producers and consumers.

Market incentives and regulatory frameworks work hand in hand to ensure product safety in the marketplace, particularly for products targeted at children. While market forces drive companies to prioritize safety as a way to attract and retain consumers, regulatory frameworks provide the necessary oversight to ensure compliance and protect consumers from unsafe products.

²⁷ Labeling and transparency requirements in India are governed by various legislations to ensure consumer safety and informed decision-making. The Legal Metrology Act, 2009 mandates accurate labeling of packaged goods, including declarations of weight, price, manufacturing details, and expiry dates. The Food Safety and Standards Act, 2006 requires food products to bear labels with detailed nutritional information, allergen warnings, and batch identification. Additionally, the Drugs and Cosmetics Act, 1940 stipulates labeling standards for pharmaceuticals, ensuring dosage and storage instructions are clearly provided. Under the Consumer Protection Act, 2019, misleading or incomplete labels are considered unfair trade practices, holding manufacturers accountable for misrepresentation. These regulations collectively emphasize transparency, safety, and accountability, empowering consumers to make informed choices.

Together, these mechanisms create a system where safety is not just an afterthought but a fundamental feature of product design and marketing. For parents, this combination offers greater peace of mind, knowing that the products they choose for their children meet rigorous safety standards, while for manufacturers; it provides both economic opportunities and legal obligations to maintain high safety standards.

VIII. CONCLUSION

The economics behind parental preferences for safe consumer products reveal a nuanced interplay of risk aversion, income elasticity, and consumer trust. While higher-income parents can more easily afford safer products, regulatory frameworks are essential to ensure equity in access to safety across all income levels. As long as safety remains a paramount concern for parents, manufacturers and policymakers alike will need to prioritize safety standards and transparency in the marketplace. Ensuring that parents feel secure in their purchasing decisions not only boosts consumer confidence but also strengthens the market for safer, high-quality products.

The economics behind parental preferences for safe consumer products reveal a multifaceted relationship between consumer behavior, market dynamics, and regulatory frameworks. Parents prioritize safety in their purchasing decisions, driven by risk aversion, emotional attachment, and the desire to protect their children. This heightened concern leads to a willingness to pay a premium for products perceived as safe, creating strong market incentives for manufacturers to emphasize safety in product design and branding.

However, parental preferences are also influenced by socioeconomic factors, with income levels playing a significant role in determining access to safer, often more expensive, products. This underscores the need for equitable access to safe consumer goods across all income groups, a goal that can be achieved through robust regulatory oversight. Regulatory frameworks, such as safety standards, certifications, and labeling requirements, ensure that product safety is upheld across the market, protecting consumers from harmful goods and fostering trust in the system.

Ultimately, securing the future through safer consumer products requires a balanced approach, where market incentives, regulatory safeguards, and

informed consumer choices work in harmony. As long as parents continue to prioritize safety, manufacturers and policymakers must remain vigilant, ensuring that safety is a core component of both product offerings and regulatory strategies, thereby building a more secure and trustworthy marketplace for all.



Advancing Safety Standards for Children's Products: Addressing Misleading Advertisements and Legal Protections



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Advancing Safety Standards for Children's Products: Addressing Misleading Advertisements and Legal Protections

- Dr. Aparna J Shinde

ABSTRACT:

The COVID-19 pandemic significantly reshaped children's lifestyles, with school closures and a growing reliance on online platforms for education, entertainment, and social interaction. This shift has created opportunities for learning but also introduced considerable risks, including exposure to misleading advertisements and inappropriate online content. The increasing prevalence of online shopping has further impacted children, shaping their consumption patterns and decision-making. Advertisements targeting children often leverage exaggerated claims, such as promoting health drinks that purportedly enhance academic performance or boost energy. Such strategies not only exploit children's impressionable nature but also raise concerns about their overall well-being. Studies indicate that 12% to 15% of advertising expenditure is directed at influencing children¹, highlighting the need for stricter regulations and greater parental vigilance.² Parents, through monitoring internet usage, employing parental control applications, and limiting access to online platforms, play a vital role in protecting children from these risks.

This paper delves into the dual responsibility of parents and policymakers in ensuring children's safety. It examines effectiveness of the legal frameworks governing children's products and advertisements and identifying regulatory gaps in the Indian context. By analyzing the role of parents in guiding children's consumption decisions and advocating for consumer rights, the study emphasizes the need for a proactive approach to safeguarding children as consumers. Furthermore, the paper underscores the importance of aligning

1 Potvin Kent M, Pausé E, Remedios L, Wu D, Soares Guimaraes J, Pinto A, Bagnato M, Pritchard M, L'Abbé M, Mulligan C, Vergeer L, Weippert M. Advertising expenditures on child-targeted food and beverage products in two policy environments in Canada in 2016 and 2019. *PLoS One*. 2023 Jan 11;18(1):e0279275.

2 Kapoor S and S Kapoor, 'Misleading Advertisement and its Impact on Children' (2020) Paper presented at IIM Kozhikode 4th International Conference on Marketing, Technology & Society.

legal protections with evolving digital landscapes, advocating for comprehensive safety standards for children's products and robust controls on misleading advertisements. Through these efforts, the paper aims to enhance awareness about consumer rights and foster a safer and more informed environment for children as consumers.

Key Words: Online shopping, children's safety, misleading advertisements, consumer rights, product safety standards, parental responsibility.

I. INTRODUCTION

The COVID-19 pandemic marked a profound transformation in the daily lives of children worldwide. School closures, restricted outdoor activities, and the widespread adoption of online platforms for education and entertainment led to a significant reshaping of their routines. While the digital shift opened up new avenues for learning and social interaction.³ Globalization and advancements in technology, including telecommunications⁴, have facilitated the free movement of goods and services across territorial boundaries. This has brought numerous benefits to consumers, such as access to a wide variety of products and services. However, it has also highlighted the inherent weaknesses of consumers, especially children, who often lack awareness of their rights and remedies. Children, a sizable and unique segment of the consumer population,⁵ are particularly vulnerable to the risks associated with

3 Li, D., 2022. The Shift to Online Classes during the Covid-19 pandemic: Benefits, Challenges, and Required Improvements from the Students' Perspective. *The Electronic Journal of e-Learning*, 20(1), pp. 1-18, available at <https://files.eric.ed.gov/fulltext/EJ1333732.pdf> (accessed on 10th September 2024).

4 Sudhir Kesharwani, India- Country Commercial Guide, International Trade Administration, 12th January 2024, available at: <https://www.trade.gov/country-commercial-guides/india-information-and-communication-technology#:~:text=The%20Indian%20telecommunications%20sector%20is,the%20fastest%20in%20the%20world.> (accessed on 10th September 2024)- India's telecommunications sector, the second largest globally with 1.2 billion subscribers and 856 million broadband users, continues to grow rapidly, driven by widespread mobile adoption, with wireless subscriptions comprising 98% of usage. As the second-largest manufacturer of mobile handsets, India is expected to reach 1 billion smartphone users by 2026, up from 770 million. With a Network Readiness Index score of 51.19/100, India improved its global ranking from 67 in 2021 to 61 in 2022. The rollout of 5G services, launched in October 2022 after a July spectrum auction spanning 10 bands, has positioned India as the fastest globally in deploying 5G, enhancing digital connectivity and access to high-speed internet.

5 J.K.Sehgal, Dr, Child consumer as important segment of the market *International Journal of Scientific Research* 1(5):14-15, June 2011.

digital commerce and targeted marketing. As digital platforms become more integrated into their daily lives, children are frequently targeted by advertisements designed to influence their consumption patterns and decision-making. Advertisers often exploit their impressionable nature with exaggerated claims about products, such as health drinks promising enhanced academic performance or improved physical stamina. Such marketing strategies not only mislead children but also pose potential risks to their health and well-being. The drive to attract young and impressionable audiences has long been a key objective for certain industries. The motto “catch them young” often leads to products or services being portrayed as synonymous with adulthood, modernity, affluence, social class, and elegance. Fears of declining sales, negative publicity, and adverse medical or media reports have prompted industries to depict their offerings as glamorous and socially acceptable, frequently using celebrity endorsements. These endorsements portray products as stress relievers, symbols of sophistication, or trendy accessories.⁶

Product safety is a critical aspect of consumerism, as it encompasses the protection of consumers from potentially hazardous or inherently unsafe products. A product is considered tangible personal property, and it must meet certain safety standards to ensure the well-being of consumers. This is an integral part of the broader consumer movement known as consumerism. In the context of children, ensuring product safety is paramount, as they are more susceptible to the adverse effects of unsafe goods and deceptive marketing practices. Studies indicate that misleading food advertisements on children’s TV channels in India, predominantly promoting non-nutritious items like chocolates, cold drinks, and energy beverages, have a profound impact on children’s eating habits, contributing to unhealthy consumption patterns and obesity⁷. Such advertisements exploit children’s impressionability and use “pester power” to influence household purchases⁸, highlighting the critical

6 Justice Sanjeev Khanna (WP Nos. 18761/2005), judgment dated 07.02.2008; *Amar Singh Z Choudhary v. State of Gujarat* (Special Civil Application No. 4848 of 2009, High Court of Gujarat at Ahmedabad, SCA/4848/2009, Oral Order 18/11/2009).

7 Khanna P, ‘Parents Perception of Influence of Television Advertisement on Children’ (2016) *International Journal of Research in Management, Economics and Commerce* 6(9), 47-56.

8 M. L. Dermott, S. O Terry, S. M. and H. Gerard, ‘International Food Advertising, Pester Power and Its Effects’ (2006) *International Journal of Advertising* 25(4), 513-540.

need for stringent product safety regulations and ethical advertising practices to protect children as vulnerable consumers.

This paper seeks to explore the dual responsibility of parents and regulators in mitigating these risks and ensuring children's safety. By examining the impact of online shopping, the influence of misleading advertisements, and the broader implications of children's online activities, this study highlights the urgent need for stricter safety standards, enhanced legal frameworks, and greater awareness of consumer rights to protect children in an increasingly digital world.

II. UNDERSTANDING CHILDREN AS CONSUMER

The definition of "consumer" under the Indian Consumer Protection Act, 2019, includes any person who buys goods or avails of services for a consideration, either fully paid, partly paid, or promised, and extends to users of such goods or services with the purchaser's approval⁹. This inclusivity inherently recognizes children as consumers, further it also recognizes their status as end-users of products and services making the Act applicable to their protection, ensuring that goods and services targeted at or intended for children are safe, reliable, and free from deceptive practices.

The definition of a "child" varies depending on the context of specific laws and regulations.¹⁰ When applied to the realm of children's products, this definition becomes crucial for ensuring safety standards, ethical marketing practices, and appropriate legal protections. Generally, a "child" is understood as an individual below the age of 18, as per the Indian Majority Act, 1875, and the Juvenile Justice (Care and Protection of Children) Act, 2015. However, in the context of consumer products specifically targeting children, the age bracket is

9 Consumer Protection Act 2019, s.2(7).

10 The Child Labour (Prohibition and Regulation) Act, 1986 and the Factories Act, 1948 define a child as someone below 14 years, prohibiting their employment in hazardous industries. The Juvenile Justice (Care and Protection of Children) Act, 2015 and the Protection of Children from Sexual Offences (POCSO) Act, 2012 recognize individuals below 18 years as children. The Prohibition of Child Marriage Act, 2006 sets the age of 18 for girls and 21 for boys as the legal threshold for marriage. The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 prohibits adolescents (14-18 years) from hazardous work, while the Mines Act, 1952 prohibits employment of anyone under 18 in mines. The Right of Children to Free and Compulsory Education Act, 2009 guarantees education for children aged 6-14 years, and the National Food Security Act, 2013 provides nutritious meals to children up to 14 years. The Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act, 1994 focuses on preventing female feticide, while the Toys (Quality Control) Order, 2020 ensures toy safety for children up to 14 years.

often narrower to align with international standards and product safety guidelines. The Toys (Quality Control) Order, 2020, enforced by the Bureau of Indian Standards (BIS), mandates safety standards for toys designed for children under 14 years¹¹. Similarly, global frameworks like the Consumer Product Safety Act (CPSA) define children's products as those intended for individuals 12 years of age or younger¹², a benchmark often adopted in India for practical regulatory purposes. The broad definition of a child under Indian law ensures comprehensive protection, but in the context of children's products, a more targeted age range (usually up to 12 or 14 years) allows for specific safety standards to be applied effectively.

Targeted advertisements have a profound impact on children's consumption behaviour, exploiting their impressionable nature and limited cognitive ability to critically evaluate marketing messages. Children, especially in the age group of 3 to 14 years, form a significant target market for advertisers who leverage commercial communications across various media, including television, radio, and digital platforms, to capture their attention¹³. Studies have highlighted that advertisements for non-nutritional food items, such as chocolates, cold drinks, and energy beverages, dominate children's TV channels. These advertisements often influence children's cognitive and social development. Younger children, unable to comprehend the persuasive intent behind ads, are particularly vulnerable to manipulation. Advertisements using celebrity endorsements, humor, and peer influence create aspirational

11 Toys (Quality Control) 2020, Para 2 w.e.f. 1st September 2020.

12 Consumer Product Safety Act (CPSA) SEC. 3. [15 U.S.C. § 2052]- The classification considers several factors, including the manufacturer's statement or labeling that reasonably indicates the product's intended use, the way it is represented in packaging, advertising, or promotion as suitable for children, and public recognition of the product as being intended for this age group. Additionally, the determination is guided by the Commission's Age Determination Guidelines, ensuring a systematic approach to identifying products meant for children. This definition helps establish clear safety and regulatory standards to protect young consumers. See also- CPSC, AGE DETERMINATION GUIDELINES: Relating Consumer Product Characteristics to the Skills, Play Behaviors, and Interests of Children, January 2020 available at: <https://www.cpsc.gov/s3fs-public/Age-Determination-Guidelines-Relating-Consumer-Product-to-Characteristics-Skills-Play-Behavior-Interests-to-Children-January-2020.pdf> (accessed on 3rd September 2024).

13 Kapoor, Dr. Sheetal and Trivedi, Vikas (2023) "Unethical Marketing and Advertising to Children: Need for Regulation," *International Journal on Consumer Law and Practice*: Vol. 11, Article 10.

connections that further drive consumption¹⁴. Research has shown a positive correlation between media exposure and the increased consumption of junk food among children, contributing to health concerns like obesity.¹⁵ Moreover, embedded advertising in digital games and social media platforms has expanded the reach of marketers, often bypassing traditional regulatory oversight.

Children are highly susceptible to exaggerated product claims and manipulative marketing strategies due to their impressionable nature and limited cognitive ability to critically analyze advertising messages. Advertisers often target children by using captivating visuals, appealing narratives, and celebrity endorsements to create aspirational connections with products.¹⁶ For instance, health drinks are marketed with claims of boosting academic performance or physical growth¹⁷, while snack foods and confectioneries are presented as essential for happiness and social acceptance. Another important sector to look after children's safety is clothing, which is well recognized as a fundamental necessity. In case, if clothing is of poor quality, defective, or lacks necessary warnings, it can pose significant risks. Issues such as harmful materials, allergic dyes, and design defects can endanger children's health and comfort. Safe clothing for children should prioritize softness, durability, proper fit, and hygienic materials free from

14 Escalas JE, 'Narrative Proceeding: Building Consumer Connection to Brands' (2004) *Journal of Consumer Psychology* 14 No. 168-80.

15 Vijayapushpam, T. Maheshwar Mekam and D. Raghunatha Rao, 'A Comparative Analysis of Television Food Advertisements Aimed at Adults and Children in India' (2014) *International Journal of Innovative Research in Science & Engineering*

16 Sushantika Chatterjee & Tasha Singh Parihar, *Vizualizing Branding: Metamorphosis of Advertising, Visual Strategies and Their Cultural Significance*, November 2023, *Revista De Cultura Visual*.

17 Mahendrakumar S. Yadav, & Dr. Bommuluri Bhavana Rao, *Legal Protection of Consumers against Misleading Advertisements with special reference to Food Products*, *Afr.J.Bio.Sc.* 6(14) (2024)- **Complan**, which claims to improve memory and make students smarter, and **Horlicks**, which asserts that it makes children "taller, stronger, sharper," use exaggerated claims without adequate evidence. Similarly, **Boost** misleadingly advertises "3 times more stamina" than ordinary chocolate drinks, while **Saffola** promotes its "Losorb technology" for heart health, and **Emami Healthy & Tasty Soyabean Oil** misrepresents its refining process with unverified claims. **Kellogg's Special K** implies that eating their low-fat breakfast aids in weight management, and **Kissan Creamy Spread** claims superior nutritional value over regular butter, both lacking substantiations. Finally, **Britannia Vita Marie** falsely suggests it is "heart-friendly" and reduces cholesterol.

harmful substances.¹⁸ Further Toys are the major companion of the children and play a vital role in a child's development, offering both entertainment and learning opportunities; however, poorly manufactured toys pose significant risks, including choking hazards, exposure to toxic substances like lead, and potential developmental issues. While efforts are being made in India to align toy manufacturing with global safety standards, the availability of hazardous toys in rural markets remains a major concern, jeopardizing the health and safety of children. The Bureau of Indian Standards (BIS), as part of its factory and market surveillance activities, tested approximately 2,500 toy samples from factories and markets up to January 2023. The results revealed that 83% of the samples complied with Indian Standards, showcasing adherence to quality and safety benchmarks. However, 17% of the toys failed to meet specific requirements, particularly in areas such as construction and labeling parameters.¹⁹ The finding that 17% of toy samples failed to meet Indian Standards underscores significant concerns in the realm of advertising through improper labeling. Labeling inaccuracies can mislead consumers, especially parents, about the safety and suitability of toys for children, resulting in unintended risks. Improper labeling often includes incomplete or incorrect information on age-appropriateness, safety warnings, or usage instructions, which are critical in guiding consumers toward informed decisions.

These exaggerated promises exploit children's lack of understanding of the persuasive intent behind advertisements, leading them to perceive such claims as factual and influencing their consumption behavior.

III. LEGAL FRAMEWORK GOVERNING CHILDREN'S PRODUCTS AND ADVERTISEMENTS

Ensuring the safety and ethical marketing of children's products is a critical aspect of consumer protection in India. The Constitution of India provides a robust framework to safeguard children's rights, emphasizing their protection and development, which is directly relevant to ensuring safety in children's product standards and ethical advertising. Fundamental Rights under Part III

18 Vasant Kothari | Dr oney Mathews, Necessity of Kidswear Safety Regulations for India: Viewpoint of Retailers, Sona Global Management Review, Vol.10, Issue 2, February 2016.

19 Bureau of Indian Standards, Indian Standards on Toys-Ensuring your Child's Safety, April 30, 2023 available at: https://www.services.bis.gov.in/php/BIS_2.0/BISBlog/indian-standards-on-toys-ensuring-your-childs-safety/(accessed on 15th September 2024).

include equality before the law²⁰ and the prohibition of discrimination, allowing special provisions for children²¹. The right to life with dignity²² underscores the need for safe and appropriate products, while the right to free and compulsory education²³ calls for consumer awareness in early education. The Directive Principles of State Policy (Part IV) mandate the state to protect children's tender age from abuse and ensure opportunities for their healthy development.²⁴ These principles also stress improved nutrition and living standards²⁵ and adherence to international obligations,²⁶ aligning with global safety benchmarks for children's products. In achieving the constitutional mandate, India has enacted several legislations to safeguard the rights, well-being, and development of children.

(A). Protection of Children's from Misleading Advertisement

The Consumer Protection Act, 2019, is the cornerstone of this framework, recognizing children as consumers by extending its safeguards to goods and services intended for or used by them²⁷. This inclusion makes the Act applicable to children's products, mandating that they are safe, reliable, and free from deceptive practices. Advertisements, protected under Article 19(1)(a) as a facet of the right to information, enable consumers to make informed economic decisions; however, the Supreme Court has clarified that this right does not extend to socially harmful or exploitative activities, allowing for reasonable restrictions under Articles 19(2) and 19(6). Cases like *Tata Press v. Mahanagar Telephone Nigam Ltd.*²⁸ and *Indian Medical Association v. Union of India*²⁹ emphasize the regulation of misleading advertisements to safeguard public health, economic welfare, and consumer rights.³⁰

20 Constitution of India, 1950, Art.14.

21 Constitution of India, 1950, Art.15(3).

22 Constitution of India, 1950, Art. 21.

23 Constitution of India, 1950, Art.21A.

24 Constitution of India, 1950, Art.39(e) and 39(f).

25 Constitution of India, 1950, Art. 47.

26 Constitution of India, 1950, Art. 51(c).

27 Consumer Protection Act 2019, s.2(7).

28 *Tata Press v Mahanagar Telephone Nigam Ltd* AIR 1995 SC 2438.

29 *Indian Medical Association v. Union of India*, [2024] 6 S.C.R. 375 : 2024 INSC 406.

30 *State of Bombay v RMD Chamarbaugwala* AIR 1957 SC 699 and see also *Fatch Chand Himmatlal v State of Maharashtra*, (1977)2SCC670; AIR 1977 SC 1825.

The Act defines “advertisement” broadly, covering all forms of publicity, endorsements, and representations across traditional and digital platforms, including indirect methods like labels and invoices, enabling scrutiny of misleading practices³¹. It holds endorsers, particularly influential personalities, accountable for false claims unless they demonstrate due diligence in verifying their accuracy³². A “misleading advertisement” under the Act includes false descriptions, unverified guarantees, and omissions of critical information³³, often overlapping with unfair trade practices such as misrepresentation of quality, mislabeling second-hand goods, and disparaging competitors³⁴. These provisions aim to curb deceptive practices and ensure accountability in advertising, safeguarding consumer trust.

Furthermore, to strengthen consumer protection against misleading advertisement, the Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022, issued by the Department of Consumer Affairs (DoCA) and the Central Consumer Protection Authority (CCPA), aim to prevent unsubstantiated claims, exaggerated promises, misinformation, and false advertising practices, ensuring accountability and transparency in advertisements. These guidelines broadly define “advertiser” to include manufacturers and third-party advertising agencies³⁵ and grant the CCPA *suo motu* powers to intervene when necessary. The guideline establishes stringent norms for advertisements targeting children³⁶, ensuring their protection from harmful and deceptive practices. Advertisements must not condone dangerous behavior, exploit children’s inexperience or loyalty, exaggerate product features leading to unrealistic expectations, or encourage practices detrimental to their physical or

31 Consumer Protection Act 2019, s.2(1).

32 Consumer Protection Act 2019, s.2(18).

33 Consumer Protection Act 2019, s.2(28).

34 Consumer Protection Act 2019, s.2(47).

35 Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements 2022, para 2(b) provides that “advertiser” means a person who designs, produces and publishes advertisements either by his own effort or by entrusting it to others in order to promote the sale of his goods, products or services and includes a manufacturer and service provider of such goods, products or services.

36 Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements 2022, para 8.

mental well-being. They prohibit direct exhortations for purchases, misleading price qualifiers, and featuring children in ads for prohibited products like tobacco or alcohol. Further, ads must avoid creating confusion between fantasy and reality, making unverifiable health or nutritional claims, or promoting illogical consumerism. Restrictions extend to endorsements by celebrities for products requiring health warnings and advertisements adverse to children's well-being, such as those for medical or cosmetic products. Further the guidelines outline the duties of manufacturers, service providers, advertisers, and advertising agencies³⁷, emphasizing accountability in promotional practices. While the guidelines strictly prohibit misleading claims, they allow for obvious untruths or exaggerations that are clearly intended to amuse or capture consumer attention, provided they are presented as humorous or hyperbolic. Such statements must not be perceived as literal or misleading representations of the product's features or benefits, ensuring that consumers are not deceived while preserving creative expression in advertising.

The Indian Penal Code, 1860, prohibits selling or exhibiting obscene objects to individuals under 20 years; The Cinematograph Act, 1952, mandates parental guidance for children under 12 for certain film content; The Young Persons (Harmful Publications) Act, 1956, protects individuals below 20 from corrupting publications; The Infant Milk Substitutes Act, 1992, prohibits claims equating milk substitutes with breastfeeding; The Cable Television Network Rules, 1994, ban advertisements that endanger safety or promote unhealthy practices and restrict adult content during prime time; The IT Act, 2000, criminalizes online child sexual abuse material, while the Cigarettes and Other Tobacco Products Act, 2003, bans tobacco advertising to shield children are the other legislation governing children's protection from misleading advertisements.

(B). Protection of Children from Defective/ Substandard/ counterfeit Product

The Consumer Protection Act, 2019 (CPA 2019) provides robust mechanisms to address defective products and deficient services, particularly for children,

³⁷ Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022, para 12.

by addressing violations of safety standards or contractual obligations. Chapter VI of the Act outlines the principles of product liability, specifying scenarios where liability arises and detailing exceptions. It provides a robust framework to address harm caused by defective children's products, enabling consumers to file complaints against manufacturers, service providers, or sellers.³⁸ The Act underscores the importance of express warranties, merchantable quality, and adherence to stringent safety standards, holding manufacturers liable for defects in design, manufacturing, or inadequate warnings that compromise children's safety. Even in the absence of negligence, liability may arise if products fail to meet express warranties or safety specifications.³⁹ Service providers are accountable for deficient or negligent services, violations of legal provisions, or failure to provide adequate instructions, which could directly impact children's well-being.⁴⁰ Sellers are held liable if they alter products, fail to provide proper instructions, or if the manufacturer is unidentifiable⁴¹. However, exceptions apply when harm results from consumer misuse, product alterations, or commonly known risks⁴². For children's products, manufacturers must ensure clear warnings, appropriate safety instructions, and compliance with standards, especially for toys, food items, and childcare products. The doctrine of strict liability forms the basis of product liability actions under the Consumer Protection Act, 2019, emphasizing accountability irrespective of the care exercised by manufacturers, service providers, or sellers. Strict liability applies when a product is defective, causing direct harm to the consumer. Section 84(2) of the Act reinforces this principle, allowing liability to arise through deficiencies, defects, or unfair trade practices, with varying standards depending on the product's nature and applicable regulations. This ensures robust consumer protection by holding entities accountable for unsafe products and practices.

38 Consumer Protection Act 2019,s.83.

39 Consumer Protection Act 2019,s.84.

40 Consumer Protection Act 2019,s.85.

41 Consumer Protection Act 2019,s.86.

42 Consumer Protection Act 2019,s.87.

Complementing CPA 2019, specialized legislations ensure comprehensive product safety. The **Food Safety and Standards Act, 2006 (FSSA)** regulates food quality, including additives, packaging, and labeling, crucial for safeguarding children's health⁴³. The **Legal Metrology Act, 2009** mandates accurate weights, measures, and declarations, preventing misleading packaging and ensuring consumer rights.⁴⁴ The **Central Drugs Standard Control Organization (CDSCO)** oversees the quality and safety of pediatric drugs and medical devices under the Drugs and Cosmetics Act, 2008. The **Bureau of Indian Standards (BIS)** ensures adherence to certified safety standards for products like toys, clothing, and school supplies, imposing penalties for non-compliance. Together, these legislations provide a comprehensive framework to protect children from unsafe products, enforce accountability, and uphold stringent safety and quality standards in manufacturing and marketing.

The Department for Promotion of Industry and Internal Trade (DPIIT), under the Ministry of Commerce and Industry, issued the Toys Quality Control Order (QCO), 2020, under Section 16 of the BIS Act, 2016, mandating all

43 The Food Safety and Standards Authority of India (FSSAI), under the Food Safety and Standards Act, 2006, has established the Food Safety and Standards (Advertising and Claims) Regulations, 2018, to safeguard consumers, particularly children, from misleading food advertisements. These regulations mandate that health and nutritional claims in advertisements be scientifically substantiated to prevent exaggerated or false promises. Advertisements targeting children are strictly prohibited from promoting unhealthy dietary habits, creating unrealistic expectations, or exploiting their credulity. Additionally, labels must provide transparent and truthful information about ingredients, nutritional content, and potential allergens to ensure safety and enable informed consumer choices. By regulating such claims, FSSAI aims to protect children from deceptive marketing practices, promote their health and well-being, and ensure that products marketed to them meet rigorous safety standards.

44 The Legal Metrology (Packaged Commodities) Rules, 2011 are pivotal in safeguarding consumers, especially children, by mandating comprehensive and accurate declarations on packaged products. These rules require manufacturers to disclose critical information such as net quantity, manufacturing and expiry dates, ingredients, and safety instructions, ensuring transparency and preventing misleading advertisements. For children's products, such declarations are indispensable as they enable parents to make informed decisions, reducing risks associated with unsafe or unsuitable goods. By enforcing these standards, the rules help uphold consumer rights and protect children from potential health and safety hazards, thereby contributing to a more responsible and trustworthy market environment.

children's toys to conform to seven Indian Standards for toy safety⁴⁵ and bear the ISI mark, effective from January 1, 2021. These standards address critical safety aspects, including physical and mechanical hazards, flammability, toxic elements, activity toys, finger paints, and electrical safety. The Bureau of Indian Standards (BIS) ensures compliance through rigorous factory inspections, licensing, and regular testing of toy samples from manufacturing units and markets. By enforcing these stringent safety protocols, the QCO aims to protect children from hazardous toys and uphold quality standards in the toy industry.

The United States and the European Union have established comprehensive legal frameworks to ensure the safety of children's products, reflecting a robust approach to consumer protection. In the U.S., the Consumer Product Safety Improvement Act (CPSIA) of 2008 introduced stringent regulations, mandating third-party testing of toys and children's products by accredited independent laboratories before market entry. Further it mandates that the products must bear permanent markings, including the manufacturer's or importer's name, contact information, model details, and manufacturing date, in addition to mandatory tracking labels. Registration forms are essential for recall notifications, ensuring consumer safety. This ensures compliance with safety standards such as ASTM F963, which covers physical, mechanical, chemical, and flammability requirements. Manufacturers must implement rigorous quality controls, including certification testing, periodic production checks, and material tracking. In the European Union, the Toy Safety Directive (TSD) 2009/48/EC mandates that toys meet essential safety

45 Bureau of Indian Standards, Indian Standards on Toys-Ensuring your Child's Safety, April 30, 2023 available at https://www.services.bis.gov.in/php/BIS_2.0/BISBlog/indian-standards-on-toys-ensuring-your-childs-safety/ (accessed on 15 September 2024)- The Toys Quality Control Order (QCO), 2020, mandates compliance with seven Indian Standards to ensure toy safety, addressing various risks to children. IS 9873 (Part 1): 2019 focuses on physical and mechanical safety, preventing hazards like choking, sharp edges, or finger crushes. IS 9873 (Part 2): 2017 targets flammability, ensuring toys do not easily catch fire. IS 9873 (Parts 3 and 9): 2017 set safe limits for toxic substances like cadmium, mercury, and phthalates. IS 9873 (Part 4): 2016 ensures the safety of activity toys such as swings and slides, while IS 9873 (Part 7): 2017 governs safety standards for finger paints in craft kits. Lastly, IS 15644: 2006 addresses electrical safety requirements for toys, collectively creating a robust framework to protect children from potential hazards.

requirements, bear CE markings, and provide necessary warnings. Manufacturers are required to conduct hazard assessments, including evaluations of chemical, physical, and mechanical risks. If harmonized standards are insufficient, an EC-type examination by a notified body ensures conformity.⁴⁶ Children's product safety in the European Union is governed by stringent regulations, including the General Product Safety Regulation (GPSR), harmonized standards, and chemical restrictions under the REACH Regulation. Manufacturers must ensure products meet safety requirements addressing mechanical, physical, chemical, flammability, and labeling aspects.⁴⁷ Standards like EN 1130 (crib safety) and EN 1466 (carry cots) set benchmarks for testing and risk assessments, with provisions for traceability labeling and safety documentation to facilitate recalls. Restrictions on hazardous substances, such as phthalates, and additional rules for food contact materials, ensure products are free from risks to children's health. Testing by accredited labs verifies compliance, and visible safety labels and reports serve as evidence of product safety, providing accountability and consumer assurance.

IV. CONCLUSION

India has a comprehensive legal framework to safeguard children from misleading advertisements and unsafe products, with the Consumer Protection Act, 2019, and related regulations serving as the cornerstone of these protections. Supplementary guidelines, such as the 2022 Guidelines for Prevention of Misleading Advertisements, and sector-specific laws like the Toys (Quality Control) Order, 2020, demonstrate India's commitment to ensuring consumer safety, particularly for vulnerable groups like children.

46 SI Mak & H.K.Lau, A study on the toy safety assessment model, 2013 6th International Conference on Information Management, Innovation Management and Industrial Engineering (ICIII).

47 Fredrik Gronkvist, Children's Product Regulations in the European Union: An Overview, September 20, 2023 Compliance Gate, available at <https://www.compliancegate.com/children-product-regulations-european-union/> accessed on 12th September 2024)-European safety standards for children's products ensure comprehensive protection. Standards like EN 1130:2019 outline requirements and testing methods for cribs and cradles, focusing on structural integrity and child safety. EN 1272:2017 and EN 1273:2005 specify safety criteria for table-mounted chairs and baby walking frames. EN 1400 series sets mechanical, chemical, and informational requirements for soothers, ensuring they meet stringent safety benchmarks. EN 1466 standards cover carry cots and stands, emphasizing secure design and material safety.

These laws incorporate global best practices, including product liability, strict labeling requirements, and accountability for advertisers and endorsers. However, the true efficacy of these provisions lies in their implementation, which continues to face challenges. Inadequate enforcement, lack of public awareness, and gaps in market surveillance hinder the realization of the laws' objectives. India must concentrate on implementing these laws in both letter and spirit by strengthening monitoring mechanisms, enhancing regulatory capacity, and ensuring swift action against violations. Additionally, fostering greater awareness among parents, children, and industry stakeholders is crucial to create an ecosystem that prioritizes the safety and well-being of children as consumers. By focusing on rigorous implementation and aligning domestic practices with global standards, India can not only protect its youngest consumers but also set a benchmark for comprehensive consumer protection in an evolving digital and consumer landscape.



Product Liability Laws in India: A Critical Analysis of Their Role in Achieving Sustainability"



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Product Liability Laws in India: A Critical Analysis of Their Role in Achieving Sustainability"

- Ms. Praseetha N. U.

ABSTRACT:

Over the last two decades, Indian law has made significant strides in enhancing access to justice, becoming a leader in protecting consumer rights and ensuring state accountability. The Consumer Protection Act of 2019, with its three-tier dispute redressal forum, exemplifies this progress. Among the eight consumer rights recognized under Indian law, the right to choose and the right to a healthy environment are pivotal. However, despite increasing cases related to environmental protection being addressed by consumer institutions, the integration of sustainability into consumer laws remains limited.

Sustainability, as envisioned in the 2030 Agenda and Sustainable Development Goal (SDG) 12, calls for responsible consumption and production practices. While environmental sustainability emphasizes minimizing negative impacts on the environment throughout a product's lifecycle, Indian consumer laws currently lack provisions mandating sustainable practices by consumers or manufacturers. This creates a critical gap in aligning consumer behaviour and production methods with environmental objectives.

This paper critically examines the role of existing legal frameworks—including the Consumer Protection Act, 2019, the Environmental Protection Act, 1986, the Ecomark Scheme, ISO Standards, and ASCI guidelines—in promoting sustainability. While the 2019 Act addresses product liability comprehensively, it fails to explicitly address environmental sustainability. The paper also explores the implications of the CCPA Guidelines prevention and regulation of Greenwashing or Misleading Environmental Claims 2024.

The paper concludes with actionable recommendations for strengthening product liability laws to incorporate sustainability, thereby aligning them with India's broader sustainability goals and fostering a greener economy.

Keywords: Consumer protection Greenwashing, product liability, sustainability.

I. INTRODUCTION

India has witnessed remarkable progress in its legal framework over the past two decades, particularly in ensuring access to justice for its vast and diverse population. This evolution is a testament to the country's commitment to

safeguarding the rights of its citizens, with consumer protection emerging as a key area of focus. The Consumer Protection Act of 2019, replacing its 1986 predecessor, stands as a pivotal development in this regard. which includes an e-filing system¹ and provisions for online hearings², underscores the state's accountability and reflects the ongoing effort to create a robust legal framework that caters to the needs of ordinary citizens. These digital advancements not only enhance accessibility and efficiency but also contribute to sustainability by reducing the need for physical paperwork, minimizing travel for hearings, and thereby lowering the overall environmental footprint of the justice delivery process.

Consumer law, as a distinct legal framework, can trace its roots back to President John F. Kennedy's groundbreaking special message to the United States Congress in 1962³, which highlighted the need to protect consumer

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- 1 Consumer Protection Act 2019, s.35- The e-Daakhil portal, first launched on 7th September 2020 by the National Consumer Dispute Redressal Commission (NCDRC), has revolutionized consumer grievance redressal in India. By the end of 2023, the portal was successfully implemented in 35 States and Union Territories, providing consumers with a seamless platform for e-filing complaints. Recently the e-Daakhil portal has now transitioned to e-Jagruti, reflecting a broader commitment to enhancing consumer grievance redressal mechanisms. The Department of Consumer Affairs, Government of India, has modernized the CONFONET software into the "e-Jagruti" portal, launched by Union Minister Shri Piyush Goyal on December 24, 2023, to provide speedy, cost-effective, and accessible consumer dispute redressal. This advanced platform integrates AI technology, enabling features like smart search, voice-to-text conversion, virtual court facilities, and seamless case management to reduce pendency and enhance efficiency across all Consumer Commissions. (MoCA, One Day Capacity Building Workshop on Modernized CONFONET software called e-Jagruti discusses consumer redressal, 13 FEB 2024, PIB Delhi, available at https://pib.gov.in/Press_ReleaseIframePage.aspx?PRID=2005604 (accessed on 10th September 2024).
 - 2 Consumer Protection Act 2019, s.38 - "In alignment with the Ministry of Consumer Affairs' commitment to sustainability and digital innovation, prioritizing video conference hearings as the default mode ensures enhanced accessibility, minimizes delays, and significantly reduces the environmental impact associated with in-person proceedings." (DO letter by Secretary(CA) to all Presidents of all SCDRCs reg. hearing through video Conferencing, dated 21st June 2024 available at: <https://consumeraffairs.nic.in/sites/default/files/DO%20letter%20by%20Secretary%2028CA%29%20to%20all%20Presidents%20of%20all%20SCDRCs%20reg.%20hearing%20through%20video%20conferencing.pdf> (accessed on 12th September 2024).
 - 3 Schrader, U., Liedtke, C., Lamla, J., et al., *Verbraucherpolitik für nachhaltigen Konsum – Verbraucherpolitische Perspektiven für eine nachhaltige Transformation von Wirtschaft und Gesellschaft* [Consumer policy for sustainable consumption – consumer policy perspectives for a sustainable transformation of the economy and society., 2013.

interests and introduced the concept of fundamental consumer rights. Over the decades, consumer law has evolved significantly, but its relationship with environmental law has been far from harmonious. This complex and, at times, conflicting interplay between consumer rights and environmental sustainability began gaining significant attention in the 1990s⁴. The growing emphasis on sustainable development and environmental protection highlighted the inherent tensions between consumer-driven economic growth and the ecological imperatives of reducing environmental harm.

Sustainability has become a global priority, particularly following the adoption of the 2030 Agenda for Sustainable Development. As articulated in Sustainable Development Goal (SDG) 12, achieving sustainable consumption and production patterns is essential for ensuring long-term ecological balance and economic growth. In India, while there has historically been a lack of legal mandates requiring consumers and manufacturers to adopt sustainable practices, recent legislative and policy developments indicate a shift in the right direction. For instance, Indian Consumer Welfare Legislations such as the Food Safety and Standards Act, 2006, Legal Metrology Act, 2009, Bureau of Indian Standards Act, 2006, Drugs and Cosmetics Act, 2008, and the Consumer Protection Act, 2019 are actively encouraging accountability through product liability and fostering sustainability. These laws collectively address various aspects of consumer safety, product standards, accurate labeling, and quality assurance, indirectly promoting sustainable production and consumption practices. By holding manufacturers accountable for defective or harmful products and ensuring adherence to safety and quality standards, these legislations incentivize environmentally responsible practices and contribute to aligning national policies with global sustainability goals.

The concept of sustainability emphasizes a circular mindset, wherein production processes and products are designed to minimize environmental harm at every stage—before, during, and after use. In recent years, Indian laws have begun to reflect this principle, with several consumer welfare legislations incorporating elements of sustainability. However, despite these advancements, there remain gaps in explicitly mandating sustainable consumption and production practices, and challenges persist in fully integrating sustainability into the consumer protection regime.

4 Krämer, L., Micklitz, H. W., and Tonner, K., *Law and Diffuse Interests in the European Legal Order*, Liber Amicorum Norbert Reich, 1997.

This paper seeks to address these gaps by critically analyzing the existing legal frameworks that have the potential to support sustainability in India. It examines the Consumer Protection Act, 2019, the Environmental Protection Act, 1986, the Ecomark Scheme, ISO standards, and the Advertising Standards Council of India (ASCI) guidelines. While the Consumer Protection Act, 2019 has strengthened accountability through its comprehensive provisions on product liability, it does not directly address environmental sustainability. Similarly, voluntary frameworks like the Ecomark Scheme and ISO standards have seen limited adoption, raising questions about their efficacy in promoting sustainable production and consumption.

Furthermore, this paper evaluates the role of emerging guidelines, Guidelines for prevention and Regulation of Greenwashing or Misleading Environmental Claims 2024, and the non-binding ASCI guidelines, in shaping advertising strategies related to green claims, eco-marks, and sustainable production. These guidelines aim to curb practices like greenwashing while fostering transparency and consumer awareness. However, their non-binding nature limits their enforceability and impact.

The objective of this paper is to propose actionable recommendations for strengthening product liability laws and integrating sustainability into India's consumer protection regime. By addressing existing gaps and leveraging recent advancements, the paper aims to align India's legal framework with its sustainability objectives and contribute to the global pursuit of a greener and more sustainable economy.

II. THE 2030 AGENDA FOR SUSTAINABLE DEVELOPMENT: INTEGRATING PRODUCT LIABILITY AND CONSUMER PROTECTION

Consumer law and environmental law address overlapping issues, yet their regulations have largely evolved independently, with minimal integration or reference to each other. While sustainability has gained prominence as a global political concept—beginning with the Brundtland Report in 1987⁵ and

5 United Nations, Report of the World Commission on Environment and Development: Our Common Future, 1987, Transmitted to the General Assembly as an Annex to document A/42/427 - Development and International Cooperation: Environment, available at <https://www.are.admin.ch/are/en/home/media/publications/sustainable-development/brundtland-report.html> (accessed on 28th August 2024).

culminating in the adoption of the Sustainable Development Goals (SDGs) under the 2030 Agenda in 2015.

The 2030 Agenda for Sustainable Development, adopted by the United Nations in 2015, provides a transformative framework for achieving global sustainability through its 17 Sustainable Development Goals (SDGs) and 169 targets. Among these, **SDG 12 (Responsible Consumption and Production)**⁶ directly aligns with the principles of product liability and consumer protection, emphasizing the need for sustainable production practices and safe, accountable consumer ecosystems. By integrating economic, social, and environmental dimensions, the agenda underscores the importance of holding manufacturers, service providers, and sellers accountable for ensuring product safety and minimizing environmental harm. It calls for collaboration among governments, private sectors, and civil society to mobilize resources, transfer technology, and promote policy coherence, fostering sustainable consumption patterns and equitable trade systems. Systematic follow-up and review mechanisms, such as those led by the High-Level Political Forum (HLPF)⁷, ensure transparency and progress, particularly for vulnerable populations and regions.⁸ By embedding sustainability into product liability and consumer protection frameworks, the 2030 Agenda provides a roadmap

6 The Global Goals, Sustainable Development Goal (SDG) 12 Responsible Consumption and Production available at <https://www.globalgoals.org/goals/12-responsible-consumption-and-production/> (accessed on 29th August 2024) - The key targets to promote sustainability globally are environmentally sound management of chemicals and waste, substantial waste reduction through prevention, recycling, and reuse, and encouraging companies to adopt sustainable practices and reporting. Promoting sustainable public procurement, raising awareness of sustainable lifestyles, and supporting developing countries in building scientific and technological capacity are central to its objectives. Additionally, it focuses on developing tools to monitor sustainable tourism and addressing market distortions, such as inefficient fossil fuel subsidies, to foster sustainable consumption and production while protecting vulnerable communities.

7 Introduction to the High Level Political Forum on Sustainable Development, available at https://sustainabledevelopment.un.org/content/documents/25372A_Introduction_to_the_HLPF.pdf (accessed on 25th August 2024).

8 United Nations, Department of Economic and Social Affairs, CEPA Strategy Guidance note on Systematic Followup and Review, November 2022, available at <https://digitallibrary.un.org/record/4028231/files/1389492-EN.pdf> (accessed on 25th August 2024).

for creating a greener, safer, and more equitable future for all stakeholders. Consumer law needs to be re-evaluated entirely and redefined in its current format, having been continuously developed over several decades⁹, encouraging inclusive and long-term economic growth, job creation, and fair pay for all¹⁰ and ensure sustainable consumption and production patterns” considers the long-term development of the production-led consumer society.¹¹

A critical challenge lies in aligning consumer behavior with sustainability principles. While consumer awareness of environmental issues is growing, actual behavior often deviates from these principles. Shared responsibility among stakeholders-companies, consumers, legislatures, and organizations-is necessary to achieve meaningful progress.¹² Companies, recognizing the rising demand for environmentally friendly products, are adapting by incorporating sustainable materials, reducing harmful packaging, and allocating resources to eco-friendly practices. Moreover, businesses must take a proactive role in educating consumers on the benefits of environmentally responsible choices, fostering a collective effort toward sustainability.

III. PRODUCT LIABILITY: A TOOL FOR SUSTAINABILITY

Product liability laws play a crucial role in promoting sustainability by holding manufacturers, service providers, and sellers accountable for the harm caused by defective products. The Indian Constitution integrates environmental protection and human rights, creating a strong foundation for linking product liability with sustainability.¹³ Building on this, the Consumer Protection Act

9 Micklitz, H. W., Squaring the Circle? Reconciling Consumer Law and the Circular Economy, in: Keirsbilck, B., and Terryn, E. (eds.), *Consumer Protection in a Circular Economy*, 2019, p. 321.

10 Sustainable development goal, 8.

11 Liedtke, C., et al., *Nachhaltigen Konsum und nachhaltige Produktion ermöglichen [Enabling sustainable consumption and sustainable production]*, 2020.

12 Schrader, U., et al., *Verbraucherpolitik für nachhaltigen Konsum [Consumer policy for sustainable consumption]*, 2013.

13 Article 21 extends the Right to Life to include environmental quality and dignity, while Article 14 ensures equality, challenging arbitrary actions harming the environment. The Forty-Second Amendment introduced Article 48A, mandating the state to protect and improve the environment, and Article 51A(g) makes it every citizen’s duty to safeguard natural resources.

(CPA) 2019 introduced a robust framework for product liability¹⁴ in India, setting the groundwork for manufacturers to adopt safer and more sustainable production practices. By enforcing liability for manufacturing defects¹⁵, defective designs, deviations from specifications¹⁶, inadequate warnings¹⁷, and non-conformity with express warranties, the Act incentivizes businesses to prioritize quality and safety¹⁸. The liability for product service providers¹⁹, that mandates services to meet legal and contractual quality standards, prevents harm through negligence or omissions, and requires adequate instructions or warnings for safe usage. The incorporation of the liability of product service providers is to address challenges associated with services like maintenance and repairs, which are intrinsically linked to the product's performance. These services bear a direct impact on the product's operational efficacy, thereby establishing a shared accountability between the manufacturer and the dealer for ensuring the quality and reliability of post-sale services.²⁰ This provision seeks to uphold the longevity and optimal functionality of the product for a defined period, thereby fostering consumer confidence and advancing principles of sustainability. The Product Seller are liable for harm if they alter, control, or fail to exercise reasonable care in handling a product or providing

14 Consumer Protection Act 2019, s.2(34) -'Product liability' means the responsibility of a product manufacturer or product seller, of any product or service, to compensate for any harm caused to a consumer by such defective product manufactured or sold or by deficiency in services relating thereto.

15 *Asia Tea Company v Commissioner I* (2017) CPJ 461 (NC)- A finished product that falls below the quality of comparable products or does not adhere to legally prescribed standards shall be classified as hazardous, thereby rendering the manufacturer liable for its deficiencies.

16 *Greater Hyderabad Petroleum Product Dealers Association v Union of India* AIR 2006 AP 349- manufacturers must strictly adhere to the specifications provided at the time of licensing, and any deviation from these specifications renders the product defective.

17 *Bituminous Casualty Corp v Black & Decker Manufacturing Co* 518 S.W.2d 868 (Tex.App. 1974)- the Texas Court of Civil Appeals outlined that a warning is sufficient if it: (1) reasonably captures the attention of a prudent user; (2) is comprehensible to the average consumer; and (3) effectively communicates the nature and severity of the danger.see also *Shanks v Upjohn Co* 835 P.2d 1189, 1200 (Alaska 1992)- an adequate warning must clearly outline the risk, convey the potential seriousness of harm, and alert a reasonable user to the danger, ensuring informed decision-making and safety compliance.

18 Consumer Protection Act 2019, s.84.

19 Consumer Protection Act 2019, s.85.

20 *Padma v Amraporkar v William* (1991) 1 CPR 287.

necessary warnings²¹. The manufacturers and sellers are exempted from liability in cases of when harm results from product misuse, alteration, or negligence, or if adequate warnings were provided and the risks were obvious or commonly known.²² Furthermore, the principles of strict liability and accountability for product manufacturers, sellers, and service providers encourage the reduction of environmental harm and promote consumer awareness.

Implementing the **Consumer Protection Act 2019**, the Department of Consumer Affairs, Government of India on the occasion of National Consumer Day, 24th December, 2022, launched a “Right to Repair Portal”²³ to empower consumers with affordable repair options, reducing the dependency on manufacturers for servicing. This initiative, initially targeting farming equipment, mobile devices, consumer durables, and automobiles, mandates manufacturers to share product details, enabling repairs by consumers or third-party providers. By harmonizing trade between OEMs and third parties, the framework aims to create jobs, reduce e-waste, and support circular economy objectives, enhancing the lifespan and recyclability of products. The portal under this initiative also aggregates consumer care details, warranty information, and links to service networks, streamlining post-sales support and promoting sustainable consumption practices.

The **Bureau of Indian Standards (BIS) Act, 2016** establishes the framework for standardization, marking, and quality certification of goods, emphasizing the importance of sustainable and quality-driven practices. Under this framework, the Ministry of Environment and Forests, Government of India, introduced the Eco-Mark Scheme in 1991²⁴, showcasing India’s proactive commitment to environmental sustainability even before participating in the 1992 Rio Summit²⁵. Administered by BIS, which also oversees the Indian

21 Consumer Protection Act 2019, s.86.

22 Consumer Protection Act 2019, s.87.

23 Right to Repair Portal, available at <https://righttorepairindia.gov.in/about-us.php> (accessed on 18th September 2024).

24 PIB, Eco Marks-Right Environment Choice, 5th November 2009, available at <https://pib.gov.in/newsite/erecontent.aspx?reid=53874> (accessed on 18th September 2024).

25 United Nations Conference on Environment and Development, Rio de Janeiro, Brazil, 3-14 June 1992.

Standards Institute (ISI) quality certification, the Eco-Mark label accredits consumer products that adhere to stringent environmental and quality benchmarks, promoting eco-conscious consumerism and sustainable development. This initiative, aimed at fostering eco-conscious consumer behavior and promoting sustainable production practices, aligns with global sustainability goals, as highlighted in Agenda 21 of the Earth Summit²⁶, which urged governments to adopt environmental labeling to reshape consumption patterns and conserve resources. Covering 16 product categories, including soaps, paints, paper, textiles, packaging, plastics, and electronic goods, the Eco-Mark Scheme incentivizes manufacturers to adhere to environmentally friendly production standards.²⁷ Despite limited success due to low participation from manufacturers, the scheme underscores the interconnectedness of consumer protection and environmental conservation, illustrating how eco-labeling can be a critical component of product liability frameworks to promote sustainability. By ensuring products meet environmental criteria, such initiatives enhance accountability among producers while empowering consumers to make informed, sustainable choices, thus contributing to the broader goal of achieving sustainable development.

Further the Green Credit Program (GCP), notified on October 13, 2023 under **the Environment Protection Act, 1986**, represents an innovative market-based mechanism aimed at incentivizing voluntary environmental actions across sectors, aligning seamlessly with the objectives of product

26 Agenda 21, a comprehensive plan of action adopted at the 1992 Earth Summit, is structured into four sections addressing key aspects of sustainable development. Section I, focusing on social and economic dimensions, emphasizes combating poverty, particularly in developing nations, altering consumption patterns, promoting health, ensuring sustainable population growth, and integrating sustainability into decision-making processes. Section II highlights the conservation and management of resources for development, covering areas such as atmospheric protection, deforestation prevention, biodiversity conservation, pollution control, biotechnology management, and the handling of radioactive waste. Section III underscores the importance of strengthening the roles of major groups, including children, youth, women, NGOs, local authorities, businesses, workers, indigenous peoples, and farmers, in fostering sustainable development. Finally, Section IV addresses the means of implementation, focusing on advancing science, technology transfer, education, international collaboration, and financial mechanisms to achieve the goals of sustainable development.

27 Ecomark Certification Rules, 2023.

liability as a tool for sustainability. Administered by the Indian Council of Forestry Research and Education (ICFRE) under the oversight of an inter-ministerial Steering Committee, the GCP encourages stakeholders, including individuals, communities, and industries, to adopt environmentally sustainable practices. Initially focusing on water conservation and afforestation, the program establishes draft methodologies to ensure measurable environmental impact and sector-wide fungibility of Green Credits²⁸. Through a user-friendly digital platform, participants can register their projects, undergo verification, and trade Green Credits on a dedicated registry and trading platform. By integrating such frameworks with robust product liability laws, the GCP not only fosters accountability among manufacturers but also promotes the creation and consumption of sustainable products, thereby advancing environmental conservation and the circular economy.

The **Energy Conservation Act of 2001** establishes a robust legal framework for promoting energy efficiency and conservation across various sectors in India, providing an indirect yet crucial link to the principles of product liability. Under this Act, the Bureau of Energy Efficiency (BEE) is tasked with formulating policies, setting standards, and implementing programs that regulate energy consumption and encourage sustainability²⁹. By establishing energy consumption norms for appliances, vehicles, industrial processes, commercial establishments, and buildings, the Act ensures that products meet stringent energy-efficiency standards, contributing to environmental

28 Green Credit Rules, 2023.

29 Ameya Khandekar & Unsplash, Bureau of energy efficiency, India: Case study, United Nations Framework Convention on Climate Change, July 2023 available at https://unfccc.int/ttclear/misc_/StaticFiles/gnwoerk_static/TEC_NSI/9a7a705dd8824587b9ffb2731f1fdd53/723a50bd0329471ebae45eb33f1aa84e.pdf (accessed on 18th September 2024)- Key good practices derived from the BEE case study emphasize the importance of thoroughly mapping the national innovation system (NSI) to understand sectoral structures, GHG mitigation opportunities, and technological needs. Strategies should focus on win-win measures, aligning initiatives with local priorities and broader policy frameworks, and fostering iterative learning for adaptive improvements. Building complementary knowledge, skills, and infrastructure is crucial for sustaining innovation, while allowing flexibility in achieving policy goals ensures inclusivity and swift adoption. A designated coordinating agency with a holistic understanding of system dynamics can address gaps, enhance synergies, and maximize stakeholder participation for impactful outcomes.

sustainability and consumer protection. These measures directly support the concept of product liability by holding manufacturers accountable for producing energy-efficient and environmentally responsible products. For instance, the standards mandated under the Act compel manufacturers to design and deliver products that not only comply with regulatory requirements but also minimize environmental harm. Programs under the Act have led to substantial energy savings, with India achieving approximately 28 million tonnes of oil-equivalent energy savings in the fiscal year 2019-20.³⁰ Such outcomes highlight the Act's role in fostering sustainable production and consumption, thus aligning product liability with the broader goals of environmental conservation and sustainable development. By integrating regulatory measures with actionable standards, the Energy Conservation Act reinforces the accountability of manufacturers and service providers in delivering sustainable products, bridging the gap between consumer rights and environmental responsibility.

The global challenges of environmental degradation and climate change demand collective action, with significant potential for individual and community-level contributions. In this context, product liability emerges as a critical tool for sustainability by holding manufacturers accountable for the environmental impact of their products. Aatmanirbhar Bharat initiative the LiFE (Lifestyle for the Environment), introduced at COP26³¹, aligns with this vision by advocating for mindful consumption and promoting a circular economy that emphasizes reuse, recycling, and sustainability over the traditional use-and-dispose model. By enforcing strict product liability laws,

30 National Electricity Plan (Vol.I) September, 2022, Central Electricity Authority, Ministry of power Government of India. Available at https://cea.nic.in/wp-content/uploads/irp/2022/09/DRAFT_NATIONAL_ELECTRICITY_PLAN_9_SEP_2022_2-1.pdf (accessed on 20th August 2024).

31 NITI Aayog, Lifestyle for Environment, available at <https://www.niti.gov.in/life/> (accessed on 20th August 2024); See also, Concept Note—Mission Lifestyle for the Environment (LiFE) Movement, Ministry of Petroleum and Natural Gas, available at [https://mopng.gov.in/files/uploads/Concept-Note—Mission-LiFE-\(1\).pdf](https://mopng.gov.in/files/uploads/Concept-Note—Mission-LiFE-(1).pdf) (accessed on 20th August 2024) - Mission LiFE is to transform its vision into tangible outcomes by engaging at least one billion Indians and global citizens in individual and collective actions to protect and conserve the environment from 2022-23 to 2027-28. Within India, the mission aspires to ensure that at least 80% of villages and urban local bodies achieve environmentally friendly status by 2028.

manufacturers can be incentivized to produce durable, eco-friendly products with minimal environmental footprints. Such measures not only reduce waste and carbon emissions but also foster a culture of responsible production and consumption. When integrated with movements like LiFE, product liability laws can drive sustainable behaviors, ensuring that manufacturers, consumers, and communities collectively contribute to a healthier planet.

By integrating sustainability into product design, manufacturing, and service delivery, businesses not only mitigate risks but also address growing consumer demand for eco-friendly products.

III. ETHICAL LABELLING AND ADVERTISING OF PRODUCTS: A TOOL FOR SUSTAINABILITY

Ethical labeling and advertising serve as vital instruments for sustainability, fostering transparency, accountability, and informed consumer choices. By emphasizing sustainable practices and truthful claims, they inspire responsible consumption, bolster consumer trust, and advance global environmental objectives.

The Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022³², serve as a critical tool in promoting sustainability through ethical advertising practices. By mandating transparency and accountability, the guidelines ensure that advertisements present truthful, substantiated claims, discouraging misleading representations that could harm consumer interests and undermine trust. Specific measures, such as the prohibition of surrogate advertisements³³ and the regulation of bait³⁴ and free claims advertising³⁵, prevent manipulative tactics that exploit consumer vulnerabilities and promote overconsumption.

32 The Central Consumer Protection Authority in exercise of the power under section 18 of the Consumer Protection Act, 2019 (35 of 2019), enacted Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022 w.e.f. 9th June, 2022.

33 Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022, para 6.

34 Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022, para 5.

35 Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022, para 7.

Particularly noteworthy is the emphasis on safeguarding children, prohibiting advertisements that foster unrealistic expectations, unhealthy behaviors, or negative self-images³⁶. The guidelines also require endorsers to exercise due diligence³⁷, ensuring their endorsements are genuine and based on adequate knowledge, thus enhancing accountability in marketing practices. The mandate for full disclosure of material connections between endorsers and advertisers further reinforces transparency and consumer trust³⁸.

To strengthen the implementation of ethical advertising practices and provide greater clarity on sustainability claims, the Central Consumer Protection Authority (CCPA) introduced the Guidelines for Prevention and Regulation of Greenwashing or Misleading Environmental Claims, 2024. The Guidelines mandate that all environmental claims in advertisements be truthful, substantiated by verifiable evidence, and presented with adequate disclosures, including details on specific product features, manufacturing processes, or stages to which the claim pertains. By addressing ambiguities, the guidelines prohibit vague terms like “eco-friendly” or “green” without proper qualifiers and disallow endorsements lacking credible certification.³⁹ The Guideline mandates person making an environmental claim to disclose all material information either directly in the advertisement or through accessible digital mediums such as QR codes or URLs. Research data used must present a balanced view, avoiding selective emphasis on favorable findings. Claims should clearly specify their scope—whether referring to the product, manufacturing process, packaging, usage, or disposal. Comparative claims must be substantiated with verifiable data, disclosing the specific aspects being compared. Specific claims such as “Compostable,” “100% Natural,” “Plastic-Free,” or “Net-Zero” require credible certification or evidence from statutory or independent third-party verification. All disclosures must be easily

36 Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022, para 8.

37 Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022, para 13.

38 Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022, para 14.

39 Guidelines for Prevention and Regulation of Greenwashing or Misleading Environmental Claims, 2024, para 5.

accessible to consumers and must not contradict the environmental claim being made, ensuring transparency and fostering consumer trust in sustainability practices.⁴⁰ They also emphasize the need for fair and meaningful comparisons, avoiding manipulation through visuals or exaggerated claims. The accompanying Guidance Note provides illustrative examples to guide compliance, reinforcing the importance of accuracy, clarity, and ethical practices in environmental marketing. This framework not only protects consumers from misleading claims but also promotes accountability among businesses, fostering sustainable consumption patterns and aligning marketing practices with global environmental goals.

The Food Safety and Standards (Packaging and Labelling) Regulations, 2011, enacted under the Food Safety and Standards Act, 2006. By mandating the use of non-toxic, food-grade materials for packaging and aligning with specified Indian Standards, these regulations encourage the adoption of sustainable materials, reducing environmental harm. The emphasis on clear labeling, including expiration dates, storage instructions, and nutritional information, helps minimize food wastage and promotes informed consumer choices. Additionally, the specific focus on reusable, recyclable, or biodegradable packaging for various product categories, such as edible oils and beverages, aligns with global sustainability goals. Provisions discouraging misleading claims and unnecessary overpackaging contribute to reducing the environmental impact of consumer goods. Through these measures, the regulations not only protect public health but also encourage producers and consumers to adopt practices that support long-term environmental sustainability, reflecting a commitment to a greener, healthier future.

The Legal Metrology (Packaged Commodities) Rules, 2011, established under the Legal Metrology Act, 2009, mandate accurate labeling of pre-packaged commodities, requiring clear declarations of the manufacturer's name, address, net quantity, retail sale price, and date of manufacture, thereby reducing consumer misinformation and fostering responsible consumption. By regulating permissible errors in declared quantities and ensuring standardized packaging dimensions, weight, and count, the rules minimize waste and promote efficiency in the production and distribution process. They

40 Guidelines for Prevention and Regulation of Greenwashing or Misleading Environmental Claims, 2024, para 6.

also mandate compliance for export packages sold domestically and discourage exploitative pricing practices, ensuring fair trade. Furthermore, the requirement for registration of manufacturers, packers, and importers enhances traceability, while penalties for non-compliance act as a deterrent against unsustainable practices, ultimately aligning trade with broader environmental and consumer welfare objectives.

The global green packaging market, valued at USD 344.32 million in 2024, is projected to grow at a 6.6% CAGR through 2030, driven by rising consumer demand for sustainable solutions and stringent regulations, including bans on single-use plastics. The Indian government has undertaken numerous initiatives to promote sustainable packaging practices, aligning environmental responsibility with regulatory compliance. Notable among these are the Plastic Waste Management Rules, 2016, which mandate the use of compostable plastics and incentivize the adoption of recyclable materials in packaging, thereby reducing the environmental impact of plastic waste. The Plastic Waste Management Rules, 2016, as amended, provide the statutory framework for managing plastic waste and banning single-use plastic (SUP) items with low utility and high littering potential, effective July 1, 2022, under the Plastic Waste Management Amendment Rules, 2021. The banned items include plastic ear buds, balloon sticks, flags, candy sticks, ice-cream sticks, thermocol for decoration, plates, cups, cutlery, straws, trays, packaging films for sweet boxes and invitations, cigarette packet wrappers, plastic/PVC banners below 100 microns, and stirrers. Restrictions extend to plastic carry bags below 75 microns from September 30, 2021, and below 120 microns from December 31, 2022. To enforce the rules, all States/UTs have established Special Task Forces chaired by Chief Secretaries/Administrators, supported by a National Task Force for coordinated efforts. Directives under the Environment (Protection) Act, 1986, include stopping the supply of plastic raw materials for banned items, revoking consents for non-compliant producers, and directing urban departments and customs authorities to enforce the bans. Monitoring platforms like the National Dashboard, CPCB Monitoring Module, and CPCB Grievance Redressal App oversee compliance. Nationwide enforcement campaigns, including drives in July, October, and November 2022, targeted SUP items in markets, manufacturing units, and border checkpoints, resulting

in penalties of ¹ 5.81 crore, the seizure of 775,577 kg of banned materials, and denial of registrations to non-compliant entities on the EPR portal. To promote alternatives, the Ministry of MSMEs supports MSMEs transitioning to eco-friendly options, with initiatives such as a National Expo and Startups Conference in Chennai. Awareness and capacity-building programs continue to drive compliance, emphasizing the adoption of eco-alternatives as critical to the successful implementation of the SUP ban.

Additionally, the Swachh Bharat Abhiyan (Clean India Mission) emphasizes comprehensive waste management and environmental sustainability, fostering awareness and accountability across industries. The Swachhata Chronicles: Transformative Tales from India (2024)⁴¹, from the Swachh Bharat Mission website provides an insightful perspective on India's progress in sanitation and hygiene, which can also be analyzed through the lens of ethical labeling and sustainable packaging. The emphasis on decentralized waste management and behavioral change campaigns resonates with the principles of ethical labeling, ensuring transparency and accountability in the lifecycle of consumer products. The shift towards sustainable packaging aligns with the broader mission of reducing environmental impact, as highlighted in the document's emphasis on waste reduction and recycling. By promoting eco-friendly practices, such as compostable packaging and waste segregation at the source, the chronicles advocate for a circular economy model where ethical labeling becomes a critical tool in educating consumers about the environmental footprint of their purchases. These efforts demonstrate how integrating ethical packaging and labeling into broader sanitation and sustainability frameworks can drive meaningful change, reducing waste and fostering responsible consumer behavior.

IV. CONCLUSION AND RECOMMENDATIONS

The nexus between product liability laws and sustainability is crucial in combating global challenges like environmental degradation and climate

41 Swachhata Chronicles Transformative Tales from India Vol:2, available at <https://swachhbharatmission.ddws.gov.in/sites/default/files/Technical-Notes/Swachhata-Chronicles-Transformative-Tales-from-India-2024.pdf> (accessed on 15th September 2024).

change. While India has advanced accountability through the Consumer Protection Act (CPA) 2019, Environmental Protection Act 1986, and Plastic Waste Management Rules 2016, the explicit integration of sustainability within consumer protection laws remains inadequate. Bridging this gap necessitates comprehensive legal reforms, stringent enforcement mechanisms, and inclusive stakeholder engagement. To embed sustainability in product liability, the CPA 2019 should mandate eco-conscious production and consumption practices, impose penalties for environmentally harmful manufacturing, and incentivize circular economy principles like durability and recyclability. Enforcing compliance with schemes such as Eco-Mark and rigorous application of the 2024 Greenwashing Guidelines can ensure transparency and curb deceptive marketing. Technological interventions, including QR codes for detailed disclosures, enhance consumer empowerment and trust in sustainable claims. Robust enforcement by regulatory bodies like CPCB and SPCBs, supported by real-time tracking platforms, is vital for adherence to sustainability mandates such as single-use plastic bans. MSMEs must receive targeted financial and technical support to transition toward eco-friendly practices, while national expos and innovation hubs can catalyze sustainable manufacturing. Consumer awareness initiatives, exemplified by the Swachh Bharat Mission, should amplify educational campaigns on eco-friendly consumption and product choices, further reinforced through collaborations with public institutions. Technological advancements like the Right to Repair Portal and smart tools for sustainable product identification should be leveraged to extend product lifecycles and minimize e-waste. Aligning national frameworks with global sustainability benchmarks, particularly SDG 12, requires adopting best practices through international collaboration, robust reporting, and accountability mechanisms. Economic incentives such as tax benefits for sustainable practices, subsidies for eco-friendly purchases, and reduced duties on sustainable raw materials can accelerate this transition. Public-Private Partnerships (PPPs) offer transformative potential in waste management and recycling infrastructure, fostering innovation and reinforcing CSR-led sustainability efforts. Periodic policy reviews by dedicated task forces, stakeholder consultations, and annual

sustainability reporting can ensure the adaptability and efficacy of legal frameworks. By embedding sustainability within product liability laws, India can spearhead a consumer protection regime that is environmentally responsible, globally aligned, and future-focused, fostering a resilient and sustainable economy.



Consumer Product Safety and Environmental Protection: Legal Perspectives on Sustainability and Regulation



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Consumer Product Safety and Environmental Protection: Legal Perspectives on Sustainability and Regulation

- Ms. Amulya Raj

ABSTRACT:

The environment, once a boon for all living beings, now faces significant threats due to widespread exploitation and pollution. Climate change, resource overuse, and pollution severely impact human health and ecological balance. The modern consumer market is a major contributor to environmental degradation, with products ranging from daily essentials to chemicals and preservatives in food and personal care items causing pollution and health risks.

To ensure safety for both consumers and the environment, products should be designed and manufactured with high standards. High-quality products not only foster consumer trust but also enhance market reputation. However, many products today contain harmful chemicals, such as sodium benzoate and propyl gallate, linked to cancer and asthma. Similarly, substances like aluminium and phthalates in skincare products pose severe long-term health risks.

India, as a populous nation, has established regulatory frameworks like the Food Safety and Standards Authority of India (FSSAI) to set and enforce food safety standards. While the Consumer Protection Act of 2020 ensures six fundamental consumer rights—including safety, information, and redressal—challenges persist in enforcing these measures uniformly across the country. The paper highlights how regulatory gaps and enforcement inefficiencies hinder progress. It also examines issues in industries such as fashion, where substances like PFAs in fabrics pose environmental and health concerns, and e-commerce, where packaging materials and transportation contribute significantly to ecological harm.

Global regulatory initiatives, such as legal actions in the United States, demonstrate the potential for reducing harmful substances and promoting safer consumer products. These efforts underscore the need for collaboration between governments, companies, and consumers. By exercising their rights and demanding safer products, consumers can drive ethical manufacturing

practices. Companies, in turn, must adopt sustainable and ethical approaches to product design and production.

This shared responsibility can lead to a safer, healthier, and more sustainable future, highlighting the interconnection between consumer safety and environmental protection. Practical solutions, including consumer awareness programs, corporate sustainability initiatives, and stronger enforcement of regulatory frameworks, are essential to address these intertwined challenges.

Keywords: Consumer safety, Consumer Protection Act 2020, Harmful chemicals, FSSAI, Regulatory bodies, Environmental impact

I. INTRODUCTION: THE DETERIORATING STATE OF THE ENVIRONMENT & CONSUMER RESPONSIBILITY

The environment, once a boon for all living beings, is now increasingly becoming a source of concern for consumers and producers alike. The Earth faces severe threats due to unsustainable practices, many of which are directly tied to the consumer goods industry. Nature, encompassing vibrant ecosystems, intricate biodiversity, and life-sustaining resources, has generously provided humanity with the means to live comfortably. However, in the race for convenience and efficiency, both manufacturers and consumers have contributed to environmental degradation, jeopardizing the planet and public health.

The unchecked exploitation of natural resources, coupled with the widespread production of harmful consumer goods, has created a significant ecological imbalance. According to the United Nations Office for Disaster Risk

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- 1 United Nations Office for Disaster Risk Reduction (UNDRR), “**The human cost of disasters: an overview of the last 20 years (2000-2019)**” 2020, available at: <https://www.undrr.org/publication/human-cost-disasters-overview-last-20-years-2000-2019> (accessed on 14/12/2024); See Also, United Nation Environment Programme, “Climate Change and Water related Disaster”, available at <https://www.unep.org/topics/fresh-water/disasters-and-climate-change/climate-change-and-water-related-disasters#:~:text=Climate%20change%20is%20affecting%20the,%2C%20wildfires%2C%20pollution%20and%20floods.> (accessed on 14th December 2024).
 - 2 Géraud de Lassus Saint-Geniès, The IPCC Report Will Have Profound Effects on Climate Governance, October 23, 2018, available at: https://www.cigionline.org/articles/ipcc-report-will-have-profound-effects-climate-governance/?utm_source=google_ads&utm_medium=grant&gad_source=1&gclid=Cj0KCQiA0—6BhCBARIsADYqyL9VUdhvnHIJweFDwjHxR_N2nPoHFF4RKOT2IgaedM_HFoEIBenao4aAhRwEALw_wcB (accessed on 14th December 2024).

Reduction (UNDRR), over 90% of natural disasters are now climate-related¹. Global temperatures have risen by approximately 1.2°C since pre-industrial times, as reported by the Intergovernmental Panel on Climate Change (IPCC)². Moreover, plastic pollution—stemming largely from single-use packaging—results in an estimated 11 million metric tons of waste entering oceans annually, according to the United Nations Environment Programme (UNEP)³ furthermore, deforestation results in the loss of approximately 10 million hectares of forest annually⁴, significantly contributing to biodiversity loss. This cycle of excessive consumption and poor disposal habits not only damages ecosystems but also exposes consumers to toxic chemicals found in many everyday products.

II. THE CONSEQUENCES OF UNSAFE PRODUCTS AND ENVIRONMENTAL OVEREXPLOITATION

The consequences of environmental overexploitation and unsafe product practices are increasingly evident. Consumer goods, from food to personal care items, often contain chemicals and preservatives that pose significant health risks. For instance, harmful additives like sodium benzoate, commonly found in packaged foods, and phthalates in skincare products have been linked to long-term health issues, including hormonal imbalances and cancer. Additionally, the reliance on plastic packaging exacerbates pollution, clogging waterways and harming marine life.

Beyond the immediate health impacts, unsustainable consumer behaviours and manufacturing practices contribute to broader environmental crises. Issues such as climate change, air pollution, and water contamination from excessive nitrogen and phosphorus use have far-reaching consequences. Ocean acidification, primarily driven by increased CO₂ emissions, is another critical concern; according to the National Oceanic and Atmospheric Administration (NOAA), ocean acidity has increased by 30% since the Industrial Revolution (NOAA)⁵.

3 U.S. Department of State, “Plastic Pollution”, available at: <https://www.state.gov/key-topics-office-of-environmental-quality-and-transboundary-issues/plastic-pollution/#:~:text=It%20impacts%20our%20environment%2C%20health,instea%20break%20down%20into%20microplastics>. (accessed on 14th December 2024).

4 Hannah Ritchie (2021) - “Deforestation and Forest Loss” Our Worldin Data available at: <https://ourworldindata.org/deforestation> (accessed on 14/12/2024).

5 NOAA, Ocean acidification, April 1, 2020 available at: <https://www.noaa.gov/education/resource-collections/ocean-coasts/ocean-acidification> (accessed on 14th December 2024).

Consumers must also grapple with the indirect consequences of their purchasing decisions. Energy-intensive manufacturing processes, reliance on non-renewable resources, and poor waste management practices amplify the environmental impact of products. A significant portion of these issues can be traced to the production, packaging, and transportation stages of consumer goods, underscoring the need for more stringent safety and sustainability standards in product design.

The Impact of Consumer Products on Health and the Environment

Today's global market serves billions of consumers, but the safety and sustainability of consumer products remain pressing concerns. Ensuring consumer product safety is vital to protecting public health and minimizing environmental harm. Products must comply with safety standards to avoid risks to consumers while also addressing their environmental impact. High-quality, safe products foster consumer trust, enhance loyalty, and contribute to a sustainable future. Companies that prioritize ethical practices and safety not only gain a positive market reputation but also encourage repeat purchases, thereby building long-term customer relationships. Conversely, unsafe products laden with harmful substances like preservatives, PFAS, and phthalates pose significant health risks, including chronic illnesses and environmental degradation. The World Health Organization (WHO) reports that 600 million people suffer from foodborne illnesses annually, resulting in 420,000 deaths globally, with children under five being the most affected.⁶⁷

Consumer products also significantly impact the environment. Chemicals like PFAS, azodyes, and phthalates, commonly used in textiles and other goods, persist in the environment, leading to contamination of water, soil, and air. The U.S. Environmental Protection Agency (EPA) notes that PFAS exposure is linked to cancer, endocrine disruption, and fertility issues, while phthalates

6 Foodborne Diseases Estimates, available at: <https://www.who.int/data/gho/data/themes/who-estimates-of-the-global-burden-of-foodborne-diseases>. (accessed on 14th December/2024).

7 The Hindu, Unsafe food causes 600 million cases of illnesses, 4,20,000 deaths annually: WHO chief Dated September 20, 2024. available at: <https://www.thehindu.com/sci-tech/health/unsafe-food-causes-600-million-cases-of-illnesses-420000-deaths-annually-who-chief/article68663484.ece#:~:text=WHO%20Director%2DGeneral%20Tedros%20Adhanom,and%204%2C20%2C000%20deaths%20annually>. (accessed on 14th December 2024).

have been shown to increase oxidative stress and respiratory disorders. Over 78% of the U.S. population has detectable levels of phthalates, according to studies.⁸ Further Pregnant and lactating women and children are more sensitive towards this chemical⁹. It is also important because it does not breakdown in the environment, and when consumer products are tossed in landfills, PFAs may lead into the environment. Wherein Azodyes, which is widely used as dye for making paper, carpet, and cloth, can have detrimental effects on health related to allergies, tumor formation, and endocrine disruption¹⁰, whereas phthalates, commonly found in plastics and personal care products, can increase oxidative stress in the body, and oxidative stress can cause ferritin, absolute neutrophil count, and bilirubin¹¹. In fact, attentive to these issues, the Legislation of America passed comprehensively to protect all Americans from harmful PFAs. The Action Act contains a requirement to create a PFA-free label for consumer products¹².

Coming to skincare or self-care products, it's essential to avoid some kinds of chemicals used by companies that they continually use in their products. In essence, aluminum, which can be found in some eye makeup products, can

8 Chien-Wen Chen, Endah Rahmawati, Guan-Lin Lai, Ya-Ching Chou, Yun-Yi Ma, Yi-Xuan Lee, Chii-Ruey Tzeng, "Chapter 22 - Human Genetics and Assisted Reproduction in Endometriosis", Ed. Peter C.K. Leung, Jie Qiao, Human Reproductive and Prenatal Genetics, Academic Press, 2019, pp.495-514.

9 'Our Current Understanding of the Human Health and Environmental Risks of PFAS' (EPA, 16 May 2024) available at: <https://www.epa.gov/pfas/our-current-understanding-human-health-and-environmental-risks-pfas> (accessed on 2nd September 2024).

10 'Research Advances in the Adverse Effects of Azo Dyes' (Zhonghua Yu Fang Yi Xue Za Zhi, December 2020) available at: <https://pubmed.ncbi.nlm.nih.gov/33333672/> (accessed on 5th September 2024).

11 Federica Arrigo, Federica Impellitteri, Giuseppe Piccione and Caterina Faggio, 'Phthalates and Their Effects on Human Health: Focus on Erythrocytes and the Reproductive System' (Comparative Biochemistry and Physiology Part C: Toxicology and Pharmacology, August 2023) available at: <https://www.sciencedirect.com/science/article/pii/S153204562300100X> (accessed 30th August 2024).

12 Monica Amarelo, *New Tests Find Toxic 'Forever Chemicals' in Bedding, Yoga Pants and Other Textiles* (EWG, 26 January 2022) available at: <https://www.ewg.org/news-insights/news/2022/01/new-tests-find-toxic-forever-chemicals-bedding-yoga-pants-and-other> (accessed 26th August 2024).

increase the migration of breast cancer cells. The skin has high absorption, so skincare products can be absorbed and enter our bloodstream, which can have harmful effects on our overall health, according to Blyumin Karasik¹³. In fact, phthalates found in certain personal products can affect male fertility. There are many other products that contain PEGs (polyethylene glycols), paraben, aluminium for maldehyde, mathalates, and oxybenzone. These are nothing but a source of increasing cancer, the risk of male and female fertility rates, and altered poverty.

III. WASTE MANAGEMENT CHALLENGES AND ENVIRONMENTAL IMPLICATIONS

The impact of consumer purchases on the environment extends beyond buying and usage to how items are disposed of. Single-use items, such as shiny wrappers and non-recyclable plastics, often end up in landfills where they can persist for up to **1,000 years**, disrupting ecosystems and contributing to land pollution.¹⁴ These materials not only remain in the soil but also emit harmful gases during decomposition, which harm the environment. Research shows that pure polylactic acid (PLA), often used as a biodegradable alternative, decomposes more slowly in soil than bio composites, with decomposition rates influenced by fibre reinforcement treatments¹⁵. Anaerobic decomposition of organic waste in landfills further exacerbates the issue by releasing methane, a potent greenhouse gas contributing to climate change.¹⁶

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- 13 Beth Ann Mayer, 'The 'Dirty' Half Dozen: 6 Ingredients to Avoid for Stress-Free Skin Care' (1 September 2022) Healthline available at: <https://www.healthline.com/health/beauty-skin-care/ingredients-to-avoid-for-stress-free-skin-care#ingredient-woes> (accessed 10th September 2024).
 - 14 Allan T. Williams, Nelson Rangel-Buitrago, The past, present, and future of plastic pollution, *Marine Pollution Bulletin*, Vol. 176, 2022.
 - 15 Lindani Koketso Ncube, Albert Uchenna Ude, Enoch Nifise Ogunmuyiwa On a positive note, some developing nations are starting to prioritize green products. People are even willing to pay more for them. Sustainable items are designed to minimize environmental impact throughout their lifecycle, from usage to disposal., Rozli Zulkifli, and Isaac Nongwe Beas, *Environmental Impact of Food Packaging Materials: A Review of Contemporary Development from Conventional Plastics to Polylactic Acid Based Materials* (6 November 2020) available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7664184/> (accessed 13th September 2024).
 - 16 Consumption, *Friends of the Earth* <https://friendsoftheearth.uk/consumption-natural-resources> (accessed 13th September 2024).

Studies indicate that approximately **70% of greenhouse gas emissions are linked to consumer purchases and waste management practices.**¹⁷ Plastics breaking down in landfills release toxic substances, intensifying pollution. Despite the availability of eco-friendly alternatives, many consumers are hesitant to choose them due to perceptions of higher costs, reduced durability, and lack of brand appeal. These misconceptions hinder progress toward sustainability, emphasizing the need for better consumer awareness, affordable eco-friendly products, and responsible waste management practices to mitigate environmental damage.

IV. LEGAL FRAMEWORK IN INDIA : ADDRESSING ENVIRONMENTAL AND CONSUMER SAFETY CONCERNS

India's legal framework addressing environmental protection and consumer safety is built on a robust combination of constitutional provisions, legislative enactments, and judicial pronouncements. The Indian Constitution provides the foundational basis for these efforts, with Article 21 guaranteeing the right to a clean and healthy environment as part of the right to life¹⁸, Article 48A mandating the State to safeguard the environment¹⁹, and Article 51A(g) imposing a fundamental duty on citizens to protect natural resources²⁰. Judicial interventions have significantly shaped India's approach to environmental and consumer protection. Landmark cases such as *MC Mehta v. Union of India*²¹ introduced the "polluter pays" principle, and *Vellore Citizens Welfare Forum v. Union of India*²² established the precautionary principle, emphasizing sustainable development. Courts have also upheld the right to a safe environment as part of Article 21 in cases like *Consumer Education and Research Centre v. Union of India*²³. The Constitutional provisions are

17 Alexandra Ioanid, Lucian-Ionel Cioca, Dana Corina Deselnicu, and 'tefan-Alexandru Catană, *Factors Influencing Consumer Behavior toward Green Products: A Systematic Literature Review* [2022] *Int J Environ Res Public Health* 19(24): 16568 available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9778922/> (accessed 13th September 2024).

18 Constitution of India, Art.21.

19 Constitution of India, Art.48A.

20 Constitution of India, Art.51A(g).

21 *M.C. Mehta v. Union of India* is: 1987 AIR 1086, 1987 SCR (1) 819, 1987 SCC (1) 395, JT 1987 (1) 1, and 1986 SCALE (2) 1188.

22 *Vellore Citizens Welfare Forum v. Union of India* is AIR 1996 SC 2715.

23 *Consumer Education and Research Centre v. Union of India* is: 1995 AIR 922, 1995 SCC (3) 42, JT 1995 (1) 636, and 1995 SCALE (1) 354.

supported by several key environmental laws, such as the Environment (Protection) Act, 1986, which grants the central government the authority to regulate industrial pollution and hazardous substances, and the Water (Prevention and Control of Pollution) Act, 1974, and Air (Prevention and Control of Pollution) Act, 1981, which focus on curbing water and air pollution respectively. To combat the growing menace of plastic waste, the Plastic Waste Management Rules, 2016 (amended in 2022), impose restrictions on single-use plastics, mandate extended producer responsibility (EPR), and encourage recycling. Similarly, the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, regulate the disposal and management of hazardous waste, while the Wildlife Protection Act, 1972, safeguards biodiversity.

Consumer safety is comprehensively addressed under the Consumer Protection Act, 2019, which provides robust mechanisms to safeguard consumers from hazardous goods and unfair practices. It establishes authorities like the Consumer Commissions for grievance redressal and the Central Consumer Protection Authority (CCPA) to enforce consumer rights and regulate misleading advertisements and unfair trade practices²⁴. The Act introduces the concept of product liability, holding manufacturers, sellers, and service providers accountable for harm caused by defective products or services²⁵. This provision strengthens consumer rights and compels businesses to adhere to stringent safety standards, promoting safer and more sustainable products in the market. The modernization of Consumer Commissions²⁶ has further enhanced their role in promoting sustainability. With the integration of digital platforms, online filing of complaints, e-notices, and virtual hearings have streamlined the grievance redressal process, reducing paper consumption and travel-related environmental impact. These digital transformations align with sustainability goals while improving efficiency and accessibility for consumers. The Act also addresses emerging challenges, such as greenwashing—misleading claims about the environmental benefits of products or services²⁷. To curb such practices, the CCPA monitors

24 Consumer Protection Act 2019 s.10.

25 Consumer Protection Act 2019, Chapter 6 ss. 82-87.

26 Consumer Protection Act 2019, Chapter 4 ss. 28-73.

27 Guidelines for prevention and regulation of Greenwashing or Misleading Environment Claims, 2024.

advertisements and penalizes entities making false sustainability claims. In the e-commerce²⁸ and direct selling²⁹ sector, specific regulations ensure transparency in online transactions, mandate sellers to disclose detailed product information, and hold platforms liable for defective goods. By fostering accountability, regulating sustainability claims, and encouraging eco-friendly practices, these measures promote consumer trust, product safety, and environmental conservation in a rapidly evolving marketplace.

The Right to Repair aligns with the Consumer Protection Act, 2019 (CPA 2019) by promoting consumer empowerment and sustainability. While not explicitly mentioned, provisions such as Product Liability³⁰ and Unfair Trade Practices³¹ support repair rights by holding manufacturers accountable for defects and restricting monopolistic practices. The Act upholds consumer rights, including access to product information and fair post-sale services, indirectly fostering repairability. This reduces e-waste, combats planned obsolescence, and supports a circular economy, aligning with India's commitment to Sustainable Development Goals (SDG 12). Further, the Right to Repair Portal³², established by the Department of Consumer Affairs (DOCA), empowers consumers by facilitating access to repair manuals, tools, and spare parts across sectors like electronics, automobiles, and consumer durables, ensuring transparency and minimizing environmental impact while extending product lifecycles.

Additionally, the Legal Metrology Act, 2009, ensures accurate labelling of packaged goods, while the Drugs and Cosmetics Act, 1940, regulates the safety and quality of cosmetics, pharmaceuticals, and drugs. To manage waste effectively, India has introduced the Solid Waste Management Rules, 2016, which emphasize waste segregation and composting, and the E-Waste (Management) Rules, 2016, which focus on recycling and safe disposal of electronic waste.

28 Consumer Protection (E-Commerce) Rules 2020.

29 Consumer protection (Direct Selling) Rules 2021.

30 Consumer Protection Act 2019, s.84.

31 Consumer Protection Act 2019 s.2(47).

32 Department of Consumer Affairs, Food and Public Distribution, Right to repair Portal Available at <https://righttorepairindia.gov.in/> (accessed on 16/12/2024).

India, the largest populated country, relies on the Food Safety and Standards Authority of India (FSSAI), established under the Food Safety and Standards Act, 2006, to regulate food standards and ensure the safety of food products based on scientific evidence. FSSAI oversees food testing laboratories, sets standards for packaging, labelling, and sanitation³³, and enforces measures such as banning hazardous substances like potassium bromate and plastic microbeads. However, it faces criticism for lapses, including insufficiently equipped food labs³⁴ and incidents like the failure of 12% of spices to meet safety standards. A landmark case, *Swami Achyutanand Tirth v. Union of India*³⁵, highlighted the severe issue of adulterated milk, with the court directing stricter implementation of the Act, upgrading food labs with NABL accreditation, and establishing monitoring committees. Aligning this with sustainability and consumer product safety, these efforts contribute to safer, healthier food ecosystems, minimizing health risks, reducing waste from adulteration, and fostering ethical practices in food production and distribution, thereby promoting long-term public health and environmental well-being.

The Bureau of Indian Standards (BIS), established under the BIS Act, 1986, is the national standards body of India, responsible for developing and enforcing quality standards across various products to ensure consumer safety and product reliability. BIS oversees certification processes like the ISI mark, conducts testing in its laboratories, and ensures compliance with standards in areas such as electronics, food products, and industrial goods. While BIS has made significant contributions to quality assurance, it faces criticism for lapses in enforcement, such as counterfeit ISI-marked products and gaps in monitoring small-scale manufacturers. In alignment with sustainability and

33 Slurrp Editorial, 'From Farm To Table: Understanding The Role Of FSSAI In Ensuring Safe Food For All' (Slurrp, 25 January 2023) available at: <https://www.slurrp.com/article/from-farm-to-table-understanding-the-role-of-fssai-in-ensuring-safe-food-for-all-1674640337804> (accessed 11th September 2024).

34 TOI Lifestyle Desk, '12 Indian Spices Fail FSSAI Quality and Safety Standards: Report' (The Times of India, 19 August 2024) available at: <https://timesofindia.indiatimes.com/life-style/food-news/12-indian-spices-fail-fssai-quality-and-safety-standards-report/articleshow/112619865.cms> (accessed 11th September 2024).

35 *Swami Achyutanand Tirth and Ors v Union of India (UOI) and Ors* AIR 2016 SUPREME COURT 3626.

consumer product safety, BIS plays a critical role by promoting environmentally safe practices, encouraging resource efficiency, and ensuring durable product design, thereby reducing waste and supporting India's goals for sustainable development and consumer welfare. Through its evolving framework, BIS strives to balance economic growth with public health and environmental stewardship.

V. SUSTAINABILITY INITIATIVES: LINKING CONSERVATION WITH PRODUCT SAFETY

The Government of India has undertaken a series of impactful initiatives to promote sustainability across sectors, integrating environmental conservation with consumer product safety. The National Action Plan on Climate Change (NAPCC)³⁶, launched in 2008, serves as a cornerstone, encompassing missions targeting solar energy, enhanced energy efficiency, sustainable habitats, and agriculture, alongside water conservation and afforestation efforts. State Action Plans on Climate Change (SAPCCs) complement this by aligning state strategies with national goals, while innovative mechanisms like the Perform, Achieve, and Trade (PAT) Scheme incentivize energy efficiency in industries³⁷. Additionally, the Energy Conservation Building Code (ECBC) ensures that buildings adhere to energy-efficient standards³⁸, and the Compensatory Afforestation Fund Management and Planning Authority (CAMPA)³⁹ focuses on reforestation to offset ecological impacts, reinforcing the government's commitment to sustainable development.

36 Press Information Bureau, National Action Plan on Climate Change (NAPCC), Ministry of Environment, Forest and Climate Change) December 01, 2021 available at: <https://static.pib.gov.in/WriteReadData/specificdocs/documents/2021/dec/doc202112101.pdf> (accessed on 14th December 2024).

37 Guidelines for funding State Action Plan on Climate Change (SAPCC) under Climate Change Action Programme (CCAP) Ministry of Environment, Forests & Climate Change, Government of India, available at: <https://dste.py.gov.in/sites/default/files/guidelinesforfundingsapcc.pdf> (accessed on 14th December 2024).

38 Energy Conservation and Sustainable Building Code 2024, Ministry of Power, Government of India, available at; https://beeindia.gov.in/sites/default/files/ECSBC_2024.pdf (accessed on 14th December 2024).

39 Compensatory Afforestation Fund (CAF) Act, 2016- aims to compensate the loss of ecosystem and forest land due to diversion of forests for non forest use through compensatory afforestation, restoration of degraded forest, improvement of wildlife habitats, enrichment of biodiversity, etc.

Sustainability efforts extend to renewable energy, agriculture, and urban infrastructure. The National Solar Mission targets 280 GW of solar capacity by 2030⁴⁰, while schemes like KUSUM promote solar energy in agriculture to reduce dependency on fossil fuels⁴¹. Sustainable agriculture is bolstered through programs like the Soil Health Card Scheme, which provides farmers with soil nutrient insights for optimized fertilizer use⁴², and Paramparagat Krishi Vikas Yojana (PKVY), encouraging organic farming to minimize chemical inputs⁴³. Urban sustainability initiatives like the Smart Cities Mission emphasize green infrastructure⁴⁴, while programs such as FAME support the adoption of electric vehicles to curb pollution⁴⁵. Waste management has also seen a transformation through the Swachh Bharat Mission (SBM), which promotes recycling and the elimination of single-use plastics under the Plastic Waste Management Rules, 2016⁴⁶. These initiatives collectively aim to

40 Press Information Bureau, Ministry of New and Renewable Energy, Government is committed to provide Energy and Food Security: Union MoS Shri Bhagwanth Khuba, 30 JUL 2023, available at: <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1944075#:~:text=By%202030%2C%20India%20aims%20to,for%20the%20National%20Hydrogen%20Mission.> (accessed on 14th December 2024).

41 Solar Overview, Ministry of New and Renewable Energy, available at: <https://mnre.gov.in/en/solar-overview/> (accessed on 14/12/2024)- Government of India have launched various schemes to encourage generation of solar power in the country like Solar Park Scheme, VGF Schemes, CPSU Scheme, Defence Scheme, Canal bank & Canal top Scheme, Bundling Scheme, Grid Connected Solar Rooftop Scheme etc.

42 Guideline for establishment of Village Level Soil Testing Lab under Soil Health and Fertility Scheme of RKVY 2023-24 available at <https://soilhealth.dac.gov.in/files/Implementation.pdf> (accessed 23rd August 2024).

43 Paramparagat Krishi Vikas Yojana 2017, Ministry Of Agriculture and Farmers Welfare, available at: <https://darpg.gov.in/sites/default/files/Paramparagat%20Krishi%20Vikas%20Yojana.pdf> (accessed 23rd August 2024).

44 Press Information Bureau, Ministry of Housing & Urban Affairs, Enhancing Urban Life Vision and Progress of the Smart Cities Mission, 02 SEP 2024 available at <https://pib.gov.in/PressNoteDetails.aspx?NoteId=151908&ModuleId=3®=3&lang1> (accessed on 14th December 2024).

45 Press Information Bureau, Ministry of Heavy Industries, Fame India Scheme, 25 JUL 2023 available at <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1942506> (accessed on 14th December 2024).

46 Ministry of Housing & Urban Affairs, Government of India, Plastic Waste Management: Issues, Solutions and Case Studies, March 2019, available at: <https://sbmurban.org/storage/app/media/pdf/SBM%20Plastic%20Waste%20Book.pdf> (accessed on 14th December 2024).

integrate environmental preservation with consumer safety, ensuring sustainable living practices across rural and urban landscapes.

VI. SHIFTTOWARDS ECO-FRIENDLY PRODUCTS

India is witnessing a paradigm shift towards eco-friendly products, driven by consumer awareness, corporate innovation, and grassroots entrepreneurship. While government initiatives elaborated above provide a strong regulatory framework, it is the efforts of businesses and individuals that are bringing these policies to life. Indian enterprises, both big and small, are embracing sustainability, crafting solutions that minimize environmental impact while addressing consumer needs.

A study conducted by Oceana, an organization dedicated to marine conservation, revealed that Amazon was responsible for producing 465 million pounds of plastic packaging waste in 2019. This waste encompassed various forms of plastic packaging materials, such as air pillows and bubble wrap, which were used in the approximately 7 billion packages Amazon delivered that year⁴⁷. Some companies are taking steps to address these concerns. For instance, Amazon has introduced “frustration-free packaging” to minimize waste, and some platforms offer TerraCycle’s zero waste box program. Consumers can also choose websites and platforms that provide sustainable delivery options and eco-friendly products. Two additional problems linked to e-commerce are the return of products purchased online and the energy consumption of digital infrastructure supporting e-commerce, particularly data centres, which contribute to overall carbon footprints⁴⁸. With an increase in product consumption daily comes a corresponding rise in waste. A large portion of this waste is plastic that ends up polluting our oceans—this poses serious risks for marine life and overall ecosystems. However, there is encouraging news: bioplastics are gaining traction! These are derived from

47 Exposed: Amazon’s Enormous and Rapidly Growing Plastic Pollution Problem, *Oceana* (December 2021) available at: <https://oceana.org/reports/amazon-report-2021/> (accessed 23rd August 2024).

48 The Environmental Impact of E-Commerce, Earth5R available at: <https://earth5r.org/convenience-comes-at-a-cost-the-environmental-impact-of-ecommerce-packaging/> (accessed 13th September 2024).

plants rather than oil-based resources, and young innovators see this as an effective strategy to reduce carbon emissions⁴⁹.

Similarly, in Japan Renewable energy certificates play a significant role in this discussion. These certificates are traded in two distinct markets: one governed by strict regulations and another where businesses and consumers voluntarily support clean energy projects. However, promoting sustainable goods presents challenges, primarily due to the difficulty in accessing them easily. The market for these products can be limited. For instance, in Japan, green power certificates are not distributed as widely compared to others—this hampers market growth⁵⁰.

India's shift towards eco-friendly products is exemplified by innovative businesses driving sustainability and consumer safety. Bamboo India, a Pune-based startup, combats plastic pollution with bamboo-based personal care items, preventing millions of plastic items from entering landfills⁵¹. Similarly, EcoKaari upcycles discarded plastic waste into handcrafted products, blending waste management with social empowerment by employing underprivileged communities⁵². ITC Limited demonstrates corporate leadership through its WOW (Well-being Out of Waste) initiative, promoting waste segregation, recycling, and biodegradable packaging solutions aligned with circular economy principles⁵³. Zerocircle, a Mumbai-based startup, pioneers biodegradable seaweed packaging, offering a sustainable alternative to

49 Lindani Koketso Ncube, Albert Uchenna Ude, Enoch Nifise Ogunmuyiwa, Rozli Zulkifli, and Isaac Nongwe Beas, *Environmental Impact of Food Packaging Materials: A Review of Contemporary Development from Conventional Plastics to Polylactic Acid Based Materials* (6 November 2020) available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7664184/> (accessed 13th September 2024).

50 A Guide Of Green Power Certificates: Explaining Merits And Challenges, *OFFSEL* (16 January 2024) available at: <https://offsel.net/media-en/co2-reduction/green-power-certificate/> (accessed 23rd August 2024).

51 Bamboo Sahi hai, "Bamboo India – From Bamboo Innovation to Shark Tank Journey", November 21, 2024 available at <https://bamboosahihai.com/bamboo-startups/bamboo-india/#:~:text=Bamboo%20India%2C%20a%20Pune%2Dbased,sustainability%20and%20positive%20environmental%20impact.> (accessed on 14th December 2024).

52 EcoKaari's Affiliate Program available at: <https://www.ecokaari.org/pages/ecokaaris-affiliate-program> (accessed on 14th December/2024).

53 ITC, ITC's Sustainability Vision & Strategy, available at: <https://www.itcportal.com/sustainability/default.aspx> (accessed on 14th December 2024).

conventional plastics and addressing marine pollution.⁵⁴ Jaipur Rugs integrates recycled materials into its eco-friendly rugs while supporting rural artisans through fair trade practices⁵⁵, and PaperNest, a Goa-based startup, manufactures biodegradable tableware from agricultural waste, reducing single-use plastics in the hospitality sector. Together, these enterprises highlight the transformative role of innovation in advancing sustainability and environmental stewardship in India.

The Federal Trade Commission (FTC), established in 1914, sets a global benchmark for consumer product safety and sustainability through international collaboration, stringent enforcement, and consumer education. It combats deceptive trade practices by working with global agencies, ensuring compliance with safety standards, and promoting transparency. Best practices include eliminating harmful substances like artificial sweeteners, food coloring, azodicarbonamide, and potassium bromate from consumer products, enforcing regular monitoring to address fake and substandard goods, and encouraging eco-friendly production and recyclable packaging. By adopting FTC's approach—emphasizing safety, sustainability, and informed consumer choices—nations can foster safer, healthier markets and protect consumers effectively.⁵⁶ The Indian government is also proactively enforcing the product safety laws and witnessed through revocation of the licenses of 18 pharmaceutical companies due to poor-quality drugs—underscoring their focus on safety during the year of 2023⁵⁷.

54 Nidhi Adlakha, *This World Oceans Day, we look at how Pune's Zerocircle is crafting bio-soluble packaging from seaweed*, June 09, 2023 available at: <https://www.thehindu.com/life-and-style/this-world-oceans-day-zero-circle-in-pune-is-crafting-bio-soluble-packaging-from-seaweed/article66883740.ece> (accessed on 14th December 2024).

55 Jaipur Rugs, *A business model that treasures people and the environment*, available at <https://www.jaipurrugs.com/in/sustainability?srsId=AfmBOopRJcChCpmEjLbgTkUOAW5OUN4MIMpNAzGSyd9cWOUhGw-Wce5Y> (accessed on 14th December 2024).

56 Lexxi Kassler, *15 Food Ingredients to Avoid When Grocery Shopping* (The Nutrition Insider, last updated 1 May 2024) available at: <https://thenutritioninsider.com/wellness/15-food-ingredients-to-avoid-when-grocery-shopping/> (accessed 20th August 2024).

57 Taniya Dutta, *India Shuts Down 18 Drug Companies Amid WHO Probe* (The National News, 20 June 2023) available at: <https://www.thenationalnews.com/world/asia/2023/06/20/india-shuts-down-18-drug-companies-amid-who-probe/> (accessed 25th August 2024).

VII. CHALLENGES AND WAY FORWARD IN CONSUMER PRODUCT SAFETY AND SUSTAINABILITY

The contemporary consumer goods industry presents a dual challenge: ensuring product safety while promoting environmental sustainability. In India, although a robust legal framework exists through the Consumer Protection Act, 2019, the Food Safety and Standards Act, 2006, and environmental legislations like the Environment Protection Act, 1986, gaps in enforcement, outdated infrastructure, and lack of awareness impede progress. For instance, the failure of food testing laboratories to meet NABL accreditation standards and the persistent issue of plastic waste management underscore systemic weaknesses. Regulatory inefficiencies and insufficient monitoring allow unsafe products containing harmful chemicals such as sodium benzoate, phthalates, and potassium bromate to persist in the market, exposing consumers to significant health risks while degrading ecosystems.

The challenges of consumer product safety and environmental sustainability demand a multi-dimensional approach, drawing from global best practices and successful initiatives. The OECD Consumer Policy Guidelines play a pivotal role by promoting cross-border cooperation to address issues such as unsafe products and greenwashing. The OECD's "*Guidelines for Consumer Protection in the Context of Environmental Claims*" emphasize that businesses must substantiate their sustainability claims to foster consumer trust and prevent misleading practices⁵⁸. Complementing these efforts, Consumers International, a global consumer rights body, advocates for sustainable consumption through its "*Consumers for Fair and Sustainable Markets*" initiative. This program encourages businesses to adopt eco-friendly practices while empowering consumers to make ethical and sustainable choices through awareness and education.⁵⁹

In addressing chemical safety, the EU's REACH Regulation stands as a global benchmark. It mandates businesses to ensure that products are free from

58 OECD (2011), "Environmental Claims: Findings and Conclusions of the OECD Committee on Consumer Policy", *OECD Green Growth Papers*, No. 2011/01, OECD Publishing, Paris, available at: <https://doi.org/10.1787/5k9h3633prbq-en>.

59 Consumer International, Latest IPCC Report highlights need for more talk about consumers, 05 April 2022, available at: <https://www.consumersinternational.org/news-resources/news/releases/latest-ipcc-report-highlights-need-for-more-talk-about-consumers/> (accessed on 17th December 2024).

hazardous substances, holding them accountable for health and environmental risks throughout the supply chain. REACH enforces stringent testing and reporting standards to minimize the adverse impact of chemicals on both consumers and the environment.⁶⁰ Similarly, the OECD Recommendation on Product Safety provides a framework for member countries to implement robust product recall systems, establish reporting obligations, and facilitate information-sharing platforms to eliminate unsafe goods from global markets. This harmonized approach ensures faster identification and removal of hazardous products, safeguarding consumer interests.⁶¹

Global initiatives like Right to Repair and Extended Producer Responsibility (EPR) offer scalable solutions to minimize waste and enhance sustainability. The Right to Repair movement, widely supported in Europe and the United States, promotes product longevity by enabling consumers to repair devices rather than replacing them, thus reducing electronic waste. Similarly, EPR frameworks—successfully implemented in countries like Japan and across the EU—hold manufacturers accountable for managing post-consumer waste, encouraging sustainable production, packaging, and recycling processes. These measures not only reduce landfill burdens but also foster circular economies that prioritize resource efficiency and long-term sustainability.

Corporate-led sustainability efforts further exemplify best practices. For instance, Amazon has introduced “*Frustration-Free Packaging*” to reduce excess packaging waste, improving logistics efficiency while minimizing environmental harm. Similarly, TerraCycle’s Zero Waste Boxes provide consumers with accessible, scalable solutions for recycling hard-to-recycle items, bridging the gap between consumer responsibility and environmental protection. These initiatives reflect how businesses can align with global sustainability goals through innovative packaging solutions, waste reduction strategies, and responsible manufacturing.

By adopting such global best practices, India can address its existing challenges in product safety and sustainability. Aligning regulations with

60 European Union, REACH Regulations, available at: https://environment.ec.europa.eu/topics/chemicals/reach-regulation_en (accessed on 17th December 2024).

61 OECD, Recommendation of the Council on Consumer Product Safety, available at: <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0459> (accessed on 17th December 2024).

frameworks like OECD guidelines, REACH, and EPR, strengthening enforcement mechanisms, and encouraging public-private partnerships can transform the consumer market. Empowering consumers through awareness programs, fostering innovation in eco-friendly production, and holding businesses accountable for ethical practices will collectively drive India towards a safer, healthier, and more sustainable future. Collaboration between governments, businesses, and consumers remains critical to achieving these objectives, ensuring long-term environmental stewardship and consumer welfare.

VIII. CONCLUSION: A FRIENDLY REMINDER FOR SMART AND SAFE CHOICES

The interconnected challenges of consumer product safety, environmental sustainability, and human health require a unified approach where consumers, businesses, and governments work together. The growing interest in eco-friendly products reflects a positive trend, but it must be supported by strong regulations, waste management innovations, and enhanced consumer awareness. While regulatory bodies like FSSAI in India and global frameworks such as the EU's REACH Regulation and OECD Guidelines play a critical role, consistent enforcement, transparency, and accountability are essential to drive impactful change.

Consumers, as key stakeholders, must make informed decisions by choosing products that are safe, eco-friendly, and ethically manufactured. Simultaneously, businesses must embrace Extended Producer Responsibility (EPR), adopt sustainable practices such as frustration-free packaging, and eliminate harmful chemicals in products. Governments must bridge regulatory gaps, streamline enforcement mechanisms, and foster global collaboration to implement best practices from organizations like the OECD and Consumers International.

The rise of online shopping further emphasizes the need for a shift toward sustainable consumption to reduce excessive waste and pollution. By integrating initiatives like the Right to Repair, promoting circular economies, and empowering consumers with accurate information, we can mitigate environmental harm and promote a greener future.

In conclusion, building a sustainable and healthier world requires a collective effort. Consumers must recognize their power to demand safer and greener

products, businesses must take responsibility for sustainable production, and governments must ensure accountability and innovation. The time to act is now—our choices today will shape the health of our planet and future generations. Together, through education, collaboration, and responsible decision-making, we can create a safer, cleaner, and more sustainable tomorrow.



Consumer Protection in the Digital Era: Addressing Safety Standards, Liability and Legal Remedies in Online Shopping



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Consumer Protection in the Digital Era: Addressing Safety Standards, Liability and Legal Remedies in Online Shopping

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ABSTRACT:

The rapid growth of e-commerce has revolutionized consumer behaviour, shifting commerce from traditional brick-and-mortar stores to digital platforms. While this transformation has enhanced convenience and accessibility, it has also raised significant concerns regarding product safety and consumer protection. This article examines the legal framework governing consumer protection in the digital age, extending its application from traditional retail to online transactions. It analyses the legal responsibilities and liabilities of key stakeholders, including e-commerce platforms, gig workers, and intermediaries, in ensuring product safety and addressing consumer grievances. Additionally, the article discusses remedies available under the law for deficiencies in service and unfair trade practices, with an emphasis on safeguarding consumer rights. Key case laws are explored to illustrate these issues and provide practical insights into enforcing consumer protection in the digital marketplace.

Key Words: Consumer protection, e-commerce, product safety, intermediaries, legal liability, digital platforms.

I. INTRODUCTION

The evolution of digital platforms has transformed the way consumers and businesses interact, reshaping traditional shopping habits into a global, interconnected marketplace. Historically, transactions began with barter systems, evolved into price-based trade, and have now transitioned to sophisticated e-commerce platforms¹. Digital commerce today operates through various models, including Business-to-Business (B2B), Business-to-Consumer (B2C), Business-to-Government (B2G), and Consumer-to-

1 Uneeku Ilkwue, et.al, The Interplay of History and Modern Trade: A Review On How Historical Narratives Shape Consumer Perceptions And Purchase Decisions, January 2023 Economic Growth and Environment Sustainability 2(1):30-39.

Consumer (C2C), enabling buyers to access a broad spectrum of goods and services. Social networking platforms, online marketplaces, and e-commerce websites have not only enhanced accessibility but have also introduced convenience through innovations like the Unified Payments Interface (UPI), revolutionizing online transactions. However, this rapid digitalization has raised significant concerns regarding consumer safety, particularly in relation to the quality and safety of products offered online. One of the foremost challenges is ensuring product safety in an environment where consumers often cannot physically inspect goods before purchase. The anonymity of sellers, the lack of direct interaction, and the increasing prevalence of counterfeit or substandard products exacerbate risks for consumers. The study shows significant risks related to product safety in e-commerce, including discrepancies between product descriptions and actual goods (61%), low-quality items (74%), and unmet customer expectations (81%). Visible damage to packaging (49%) and goods (65%) further compounds safety concerns, highlighting the critical need for stringent standards and accountability to ensure consumer confidence in the digital marketplace.² Furthermore, the global nature of e-commerce creates jurisdictional hurdles, making it difficult to hold foreign sellers accountable or enforce consumer protection laws across borders.

The **United Nations Commission on International Trade Law (UNCITRAL)** has played a pivotal role in shaping the legal framework for electronic commerce, promoting harmonization and unification of laws to facilitate global trade. Its Model Law on Electronic Commerce³ provides a robust foundation for addressing legal uncertainties in digital transactions.

2 Ingaldi, Manuela & Brozova, Silvie. (2020). Safety of Online Shopping According to Customers. System Safety: Human - Technical Facility - Environment. 2. 73-81. 10.2478/czoto-2020-0010.

3 UNCITRAL Model Laws on *Electronic Commerce* 1996, available at: https://uncitral.un.org/en/texts/ecommerce/modellaw/electronic_commerce (Accessed on 15th September 2024)- UNCITRAL Model Laws ensure equal treatment of electronic and paper-based information, recognize electronic transactions and promote non-discrimination, functional equivalence, and technology neutrality. The 2001 Model Law on Electronic Signatures supplements these rules.- **UNCITRAL Model Law on Electronic Signatures (2001)**, available at https://uncitral.un.org/en/texts/ecommerce/modellaw/electronic_signatures#:~:text=The%20Model%20Law%20on%20Electronic,electronic%20and%20hand%2Dwritten%20signatures. (accessed on 15th September 2024).

Complementing this, the **United Nations Guidelines for Consumer Protection (UNGCP)**⁴ emphasize the need to safeguard consumer interests, particularly in the digital realm. These guidelines advocate for transparency, fair business practices, and product safety, setting a global benchmark for consumer protection. Together, UNCITRAL and UNGCP provide an essential international context for national laws like India's Consumer Protection Act (CPA) 2019.

The Consumer Protection Act (CPA) 2019 and its E-Commerce Rules address product safety concerns in digital shopping by mandating transparency, accurate product descriptions, and accountability from e-commerce platforms. These regulations ensure disclosure of seller details, secure payment options, and reliable delivery mechanisms, aiming to mitigate risks like counterfeit or substandard products. In view of the above, this article aims to discuss a robust framework that upholds consumer rights and product safety in the evolving digital marketplace.

II. THE CHANGING TERRAIN OF CONSUMER RIGHTS IN THE ERA OF TECHNOLOGY

The global e-commerce market is projected to grow from USD 8.80 trillion in 2024 to USD 18.81 trillion by 2029, at a CAGR of 15.80%⁵. In comparison, India's market, though smaller at USD 112.93 billion in 2024, is expanding faster with a CAGR of 21.5%, reaching USD 299.01 billion by 2029, driven by rising internet penetration and digital adoption.⁶ In light of the rapidly

4 General Assembly resolution 39/248 of 16 April 1985, later expanded by the Economic and Social Council in resolution 1999/7 of 26 July 1999, and revised and adopted by the General Assembly in resolution 70/186 of 22 December 2015- The United Nations Guidelines for Consumer Protection (UNGCP), amended in 1999 and 2015, emphasize the promotion of sustainable consumption, consumer awareness in electronic commerce, and the protection of financial services through education, data security, and regulatory oversight. They also advocate for alternative dispute resolution mechanisms, particularly for cross-border disputes, to ensure accessible, efficient, and transparent consumer grievance redressal.

5 Mordor Intelligence, Global E-Commerce Market 2024-29, available at: <https://www.mordorintelligence.com/industry-reports/global-ecommerce-market> (accessed on 27th November 2024).

6 Mordor Intelligence, India E-Commerce Market 2024-29, available at: <https://www.mordorintelligence.com/industry-reports/india-ecommerce-market> (accessed on 27th November 2024).

expanding digital marketplace Indian laws have increasingly focused on safeguarding consumer rights and ensuring fair practices. To uphold these mandates, the Consumer Protection Act 2019 (CPA 2019) introduces robust provisions addressing e-commerce⁷ and electronic service providers⁸ by broadening the definitions of “consumer” and “transactions” to include online and digital platforms⁹, the Act ensures statutory recognition of online shopping for the first time. It empowers the Central Government to regulate unfair trade practices, protect consumer rights, and promote transparency in e-commerce¹⁰. These measures mark a significant shift from the CPA 1986, aligning the legal framework with the needs of the digital marketplace.

On 23 July 2020 to fulfil the obligation under UNGCP to which India is Signatory, the Government enacted the Consumer Protection (E-Commerce) Rules, 2020, emphasize safeguarding consumer rights and ensuring product safety in the digital marketplace. These rules encompass all forms of e-commerce transactions, including goods and services purchased through ‘inventory-based and marketplace models’¹¹, digital products, and even foreign entities offering goods or services in India¹². Key provisions require e-commerce entities to disclose critical information such as product details, pricing, warranty, refund policies, and grievance redressal mechanisms,

7 Consumer Protection Act 2019 s.2(16) e-commerce means *a buying or selling of goods or services including digital products over digital or electronic network.*

8 Consumer Protection Act 2019 s.2(17)- Electronic service provider means *a person who provides technologies or processes to enable a product seller to engage in advertising or selling goods or services to a consumer and includes any online market place or online auction sites*

9 Consumer Protection Act 2019 s.2(7).

10 Consumer Protection Act 2019 s.94 & 101(2)(zg).

11 Ashok Patil & Akshay Yadav, Suggested Legal Framework For Strengthening The Consumer Protection In E-Commerce Transactions, GJLDP Vol.12 issue 2, Available at <https://gnlu.ac.in/Journal-of-Law-Development-And-Politics/Volume-12-Issue-2> (Accessed on 20th November 2024)- inventory-based entities own and sell goods directly to consumers, while marketplace entities act as intermediaries, facilitating transactions without owning inventory. Marketplace entities provide support services like warehousing, logistics, and payment collection, with the seller solely responsible for product warranties and guarantees. While marketplace models allow 100% FDI under the automatic route, inventory-based models are restricted. A vendor’s inventory exceeding 25% of purchases by the marketplace entity is deemed controlled by the latter.

12 Consumer Protection (E-Commerce Rules) 2020, r.2.

empowering consumers to make informed decisions. Entities must also ensure transparency by providing seller information, including legal names, geographic locations, and contact details. Moreover, the rules prohibit unfair trade practices like price manipulation and unauthorized cancellation charges while mandating that refunds and grievance redressals adhere to strict timelines to enhance consumer confidence.¹³

For marketplace e-commerce entities, additional duties include facilitating accurate product descriptions, tracking complaints, and maintaining records of sellers engaging in non-compliance with laws like the Copyright Act and Trademark Act. Sellers on these platforms are required to uphold transparency and honesty in their operations, ensure consistency in advertisements, and provide accurate pricing and contractual details.¹⁴ Similarly, inventory-based e-commerce entities bear liability for product authenticity and compliance with consumer protection norms¹⁵.

Further the Consumer Protection Act, 2019 establishes robust provisions for product liability to safeguard consumer rights and ensure product safety in the digital marketplace. Manufacturers are held accountable for defects in design, manufacturing, or inadequate instructions, with liability extending even without proof of negligence. Product service providers must deliver services without deficiency, adhere to legal standards, and provide clear warnings or instructions to prevent harm. Sellers are similarly liable if they exercise control over a product, provide faulty warranties, or neglect proper assembly and inspection. In the digital market, where consumers often rely on platform intermediaries, these provisions ensure accountability across the supply chain. However, exceptions under Section 87 protect manufacturers and sellers in cases of misuse, unauthorized alterations, or when adequate instructions are provided for workplace or expert use. These safeguards aim to enhance trust and transparency in online transactions, promoting a secure environment for consumers engaging in digital commerce.

Consumers can seek remedies through District, State, or National Commissions, or adopt ADR mechanisms. The District Commission, as per

13 Consumer Protection (E-Commerce Rules) 2020, r.4.

14 Consumer Protection (E-Commerce Rules) 2020, r. 5 & 6.

15 Consumer Protection (E-Commerce Rules) 2020, r.7.

Section 39, can order compensation from manufacturers, service providers, or sellers for harm caused. Product liability actions, defined under Section 2(35), are civil claims for harm rather than the product itself, independent of criminal penalties under Sections 90 and 91 for adulterated or spurious goods, where the Central Consumer Protection Authority (CCPA) can intervene.

The role of the Central Consumer Protection Authority (CCPA) in the digital marketplace is pivotal but specifically limited to addressing misleading advertisements, unfair trade practices, and violations of consumer rights as a class.¹⁶ In the context of product safety, the CCPA ensures that digital platforms and e-commerce entities adhere to transparency standards, prevent deceptive claims about products, and uphold fair business practices. By regulating advertisements and holding sellers accountable for false claims, the CCPA plays a crucial role in protecting consumers from unsafe or substandard products in the digital market, thereby fostering trust and ensuring consumer safety.¹⁷

Various legislations complement the Consumer Protection Act, 2019, to ensure product safety and compliance in the digital marketplace. The **Food Safety & Standards Act, 2006 (FSSA)** mandates standards for food additives¹⁸, nutraceuticals¹⁹, packaging, and labeling²⁰, requiring online food sellers to meet these benchmarks. The **Legal Metrology Act, 2009** enforces accurate declarations of weights, measures, and prices for goods sold online²¹, while the **Bureau of Indian Standards (BIS)**²² ensures quality and safety by certifying

16 Consumer Protection Act 2019, s.10.

17 CCPA penalises Flipkart for selling sub-standard Pressure Cookers to consumers; to pay penalty of ₹ 1 Lakh, available at <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1852508> (last visited on December 14, 2024) See also, Central Consumer Protection Authority passes order against Amazon for allowing sale of domestic pressure cookers in violation to mandatory standards on its e-commerce platform, available at: <https://pib.gov.in/PressReleasePage.aspx?PRID=1848370> (last visited on December 14th 2024).

18 Food Safety and Standards (Food Product Standards and Food Additives) Regulations 2011.

19 Food Safety and Standards (Food or Health Supplements, Nutraceuticals, Food for Special Dietary Purpose, Functional Food and Novel Food) Regulations 2016.

20 Food Safety and Standards (Packaging and Labelling) Regulations 2011.

21 Legal Metrology (Packaged Commodities) Rules 2011.

22 Bureau of Indian Standards Act, 2016.

goods; non-compliance can lead to consumer complaints. Lastly, the **Central Drugs Standard Control Organisation (CDSCO)** regulates the sale of drugs and medical devices, requiring e-commerce platforms to verify compliance with the Drugs and Cosmetics Act 2008. Together, these legislations bolster consumer safety in the evolving digital market.

III. JUDICIAL PERSPECTIVES ON E-COMMERCE PLATFORMS, GIG WORKERS, AND INTERMEDIARIES: ENSURING PRODUCT SAFETY AND ADDRESSING CONSUMER GRIEVANCES

The rapid expansion of digital commerce, courts have increasingly emphasized the accountability of these entities in safeguarding consumer rights. Judicial decisions have clarified the obligations of platforms in verifying product quality, ensuring transparency, and providing effective grievance redressal mechanisms. Similarly, gig workers and intermediaries have been scrutinized for their roles in the supply chain, with liability being assigned in cases where negligence or lapses compromise consumer safety. This evolving judicial perspective underscores the importance of a balanced approach to protecting consumer interests while fostering innovation and growth in the digital marketplace.

- a) **Amazon Seller Services Private Limited v. Vishwajit Tapia**²³-A complainant purchased a mobile phone from Amazon for Rs. 11,750 but received a defective product with tampered packaging. Amazon refused a replacement, citing the return window closure, and the manufacturer denied warranty services. Accused of unfair trade practices, Amazon claimed to be a facilitator for third-party retailers. However, the District and State Commissions ruled in favor of the complainant, ordering Amazon to refund the phone's price and pay Rs. 3,000 in legal costs. The court held Amazon accountable for verifying seller credentials and ensuring product quality, rejecting its claim of being merely a facilitator.

²³ Amazon Seller Services Private Ltd v Vishwajit Tapia, FA No 544/2019 (National Consumer Disputes Redressal Commission, 2019).

- b) **Supriyo Ranjan Mahapatra v. Amazon Development Centre India (P) Ltd**²⁴ - Amazon advertised a laptop at Rs. 190 with a bag but later canceled the order, citing a “price recession” issue, causing the consumer to purchase another laptop and experience mental distress. The consumer sued for unfair trade practices and sought compensation. The District Forum awarded Rs. 10,000 for emotional distress and Rs. 2,000 for legal costs. On appeal, the Bench, led by Dr. D.P. Choudhury, held that Amazon’s advertisement created a binding agreement upon order placement and noted Amazon’s liability for third-party sellers. The court ordered Amazon to pay Rs. 30,000 for unfair practices, Rs. 10,000 in punitive damages, Rs. 5,000 in legal costs, and 12% interest if unpaid within 30 days.
- c) **A.N. Vadiraja Rao v. Flipkart Internet Private Limited**²⁵— In 2017, Vadiraraja Rao, a consumer on Flipkart, placed a purchase for a cricket bat; nevertheless, what he received was a black cloak. Flipkart refuses to replace the item in spite of repeated pleas. Rao then requested compensation in a complaint that was submitted to the consumer forum in May. Flipkart, its co-founder Sachin Bansal, and the courier service were judged to have engaged in deceptive activities and provided inadequate services by the forum, which was composed of CM Chanchala and Manjula H. They were directed to reimburse Rao for the costs and inconveniences by giving him Rs. 50,000. There would be an annual interest rate of 10% if this wasn’t done. The forum denounced Flipkart and other companies for acting unethically and tricking customers into paying Rs. 50,000 to Consumer Fora. This case highlights how consumers are now demanding justice and holding e-commerce platforms accountable for their actions, with the help of e-commerce rules introduced in 2020.

24 Supriyo Ranjan Mahapatra v. Amazon Development Centre India (P) Ltd. FA No. 492/2018.

25 AN Vadiraja Rao v. Flipkart Internet Private Limited CC No. 40/2019.

- d) **Amazon Sellers Private v. Gopal Krishnan**²⁶ - It was determined that goods purchased through e-commerce platforms or online portals if found not adhered to the standards or potency or fit for purpose, online portals through which goods were purchased are held liable and it furthermore decided that an agent selling a product must guarantee its quality; in the event that the goods is proved to be faulty, both the agent and the product's maker will be held vicariously accountable for the buyer's losses.
- e) **C.N. Anantharam v. Fiat India Ltd. and Ors**²⁷ - In this case the Supreme Court, along with the National Commission, ruled that if an independent technical expert determines there are manufacturing defects in a vehicle, the consumer can receive a refund of the vehicle's price, lifetime tax, and EMI with interest. This decision sets a high standard for product liability in India, crucial due to the growth of industries and various manufacturers. Recently, the Central Consumer Protection Authority took action against companies selling substandard items, such as non-BIS-compliant pressure cookers on e-commerce platforms. Orders were issued for the recall of these products, reimbursement of prices to consumers, and penalties imposed for violating consumer rights and standards.
- f) **Abhi Traders v. Fashnear Technologies (P) Ltd**²⁸ - E-commerce regulations required the e-commerce platform to provide the complete address, phone number, rating, and further information about the vendor so that buyers could make an educated choice during the pre-purchase phase.

26 Amazon Sellers Private v. Gopal Krishnan, 2017 Indlaw SCDRC 1541, (2017) 4 CPJ 112

27 C.N. Anantharam v. Fiat India Ltd. and Ors AIR 2011 SC 523.

28 Abhi Traders v. Fashnear Technologies (P) Ltd., 2024 SCC OnLine Del 1604, Order dated 29-2-2024. **SCC Online**, *Obligation upon E-Commerce Platforms to Ensure that Sellers' Complete Details are Available* (8 March 2024) available at: <https://www.sconline.com/blog/post/2024/03/08/obligation-upon-e-commerce-platforms-to-ensure-that-sellers-complete-details-are-available-dhc-legal-news-scc-times/> (accessed on 15th September 2024).

- g) **Amazon Sellers Private v. Gopal Krishnan**²⁹ - If goods purchased through e-commerce platforms or online portals fail to meet prescribed standards, potency, or suitability for their intended purpose, the online portals facilitating the purchase may be held liable. Additionally, the agent selling the product is obligated to ensure its quality and can be held vicariously liable for any loss incurred by the purchaser due to a defective product, along with the manufacturer.

The Intermediary Liability provisions under the IT Act, 2008, offer e-commerce platforms a significant legal shield while imposing due diligence obligations to uphold consumer safety in the digital marketplace. Section 79 exempts intermediaries from liability for third-party content if they act as passive conduits, refraining from initiating, selecting, or modifying transmissions. However, this immunity is contingent upon adhering to due diligence standards, including prompt removal of unlawful content upon notification. Failure to act on government directives or facilitating illegal activities negates this protection. These provisions have enabled rapid growth of e-commerce platforms with reduced legal burdens, but they underscore the critical need for robust enforcement to safeguard consumer product safety.

- a) **Luxottica Group SPA v. Mify Solutions (P) Ltd**³⁰ - The Delhi High Court directed the defendant to guarantee that all seller information, including addresses and contact details, was disclosed on its website and to get certificates from vendors attesting to the authenticity of the items. Furthermore, the seller will be informed if the plaintiff notifies the platform of the sale of a counterfeit item. The Information Technology (Intermediaries Guidelines) Rules, 2011 provide that the listing would be withdrawn and the plaintiff notified if the seller is unable to provide proof of the product's validity.
- b) **Christian Louboutin v. Nakul Bajaj**³¹ - The Court stated that e-commerce platforms that engage in criminal activity on their website would not be able to avoid punishment. The intermediary requirements,

29 Amazon Sellers Private v. Gopal Krishnan, 2017 Indlaw SCDRC 1541, 2017 (4) CPJ 112.

30 Luxottica Group SPA v. Mify Solutions (P) Ltd 2018 SCC OnLine Del 12307.

31 Christian Louboutin v. Nakul Bajaj 2018 SCC OnLine Del 12215.

which specifically state that part of this due diligence is making sure the information being hosted does not violate intellectual property rights, are related to the need to follow due diligence. Owing to an extreme reading of Section 79, Darveys.com was not acknowledged as an intermediary and therefore not eligible for the protections afforded to intermediaries by the IT Act.

Rule 3 of the IT (Intermediary Guidelines and Digital Ethics Code) specifies due diligence for intermediaries. They must publish rules, privacy policy, and user agreement, prohibiting infringement of rights. They must disable access to infringing content within 36 hours of notice. Grievance procedures must be prominently displayed, with complaints addressed within 15 days.

The liability of gig workers in the context of consumer product safety arises from their role as intermediaries in the supply chain. Gig workers, such as delivery personnel or service providers, are generally considered agents of the e-commerce platform or seller. Their liability is often limited to their scope of work, such as ensuring safe and timely delivery or providing accurate services. However, they can be held accountable for negligence or misconduct, such as mishandling products leading to damage or failing to follow safety protocols. While primary liability often rests with the platform or seller, gig workers may face consequences for directly contributing to consumer harm, emphasizing the need for clear accountability mechanisms in the digital marketplace.

- a) **Kavita S. Sharma v. Uber India**³² - Uber driver's negligence led to the passenger missing his flight. As a result, the passenger filed a lawsuit against Uber for providing inadequate service according to the CPA. Uber argued that its drivers are independent contractors and not employees, therefore it should not be held liable for the driver's actions. However, the forum rejected this argument, stating that Uber appoints and manages the drivers, making them agents of the company. The court found that Uber exercises significant control over the drivers, including determining fares and additional charges, which are paid to Uber, not the drivers. This ruling has sparked discussions around the classification of gig workers and the responsibilities of companies like Uber. Despite holding Uber responsible for the driver's conduct, the

32 Kavita S. Sharma V Uber India (26 October 2022).

judgment did not address the nature of the employment relationship or social security implications.

The issue of Gig workers revolves around whether employers are liable for their actions and obligated to provide social security benefits. Employers are typically responsible for both in an employer-employee relationship. Independent contractors, like those hired by big-tech companies such as Uber and Ola, do not have the same liabilities or benefits. The court in *Govind Prasad Sharma v. Board of Revenue*³³ ruled that agents cannot be held accountable for independent contractors, except in bad faith cases. The court's decision to refer to Uber drivers as "third-party contractors" creates confusion about liability for workers who are not classified as employees. This ruling contradicts established principles of vicarious liability and Indian legal precedent *Ram Singh v. Union Territory of Chandigarh*³⁴ penalizing hirers for independent contractors they cannot supervise or control appears unreasonable.

One potential defense for holding Uber liable as a marketplace e-commerce entity in the Gig Economy could be the Consumer Protection Act (CPA) and E-Commerce Rules 2020. The CPA allows for intermediary liability for defective goods or services. The E-Commerce Rules detail instances where platforms cannot claim immunity as intermediaries under the IT Act. Recent consumer forum decisions have held platforms like Amazon accountable for defects, even when acting as intermediaries. This suggests that an active intermediary like Uber could be held liable without an employer-employee relationship.

The Consumer Protection Act could make major aggregators like Uber, Ola, and Zomato liable for the actions of their independent contractors, even though they are not considered employees. This could expose big-tech companies to employment liability without having to offer benefits. While this may not benefit Uber workers seeking employee benefits, it is a positive development for consumers. Platforms may now face lawsuits for gig workers' actions, a scenario that leading platforms like Uber wanted to avoid³⁵.

33 *Govind Prasad Sharma v. Board of Revenue* AIR 1965 MP 66.

34 *Ram Singh v. Union Territory of Chandigarh* AIR 2004 SUPREME COURT 969.

35 Nidhi Agrawal and Sukarm Sharma, '*Kavita v Uber India: Divergence of Liability and Employment in the Gig Economy?*' (The Corporate Law Review, 8 March 2024) available at: <https://www.tcclr.com/post/kavita-v-uber-india-divergence-of-liability-and-employment-in-the-gig-economy> (accessed on 15th September 2024).

IV. CONCLUSION

The rapid expansion of e-commerce and the gig economy has transformed consumer markets, necessitating robust measures to ensure product safety and consumer protection. The Consumer Protection Act, 2019 (CPA 2019), and the E-Commerce Rules, 2020, provide a solid legal framework to address these challenges. These laws impose clear liabilities on manufacturers, sellers, intermediaries, and gig workers, while judicial interpretations have further emphasized their accountability for ensuring quality and safety in the digital marketplace. However, the dynamic nature of digital commerce and the ambiguities surrounding the roles of intermediaries and gig workers demand ongoing refinements to the regulatory framework. To strengthen consumer safety, it is recommended that liability frameworks for e-commerce platforms and gig workers be clarified to ensure accountability without hindering innovation. Platforms must adopt stringent seller verification processes and establish robust grievance redressal mechanisms to maintain trust. Additionally, clear guidelines are needed to address the legal ambiguities surrounding gig workers, balancing consumer safety with the rights of these workers. Leveraging technologies such as artificial intelligence and blockchain can enhance transparency and traceability in supply chains, ensuring adherence to safety standards and minimizing fraudulent practices. Promoting alternative dispute resolution (ADR) mechanisms, such as mediation and arbitration, can provide faster and more cost-effective resolutions for consumer grievances. International collaboration is crucial to address jurisdictional challenges and enforce consumer protection laws in cross-border e-commerce transactions. Finally, educational campaigns to improve digital literacy will empower consumers to make informed decisions and navigate risks associated with online shopping. By addressing these areas, India can create a safer, more transparent, and equitable digital marketplace that protects consumer rights while fostering growth in the digital economy.



Digital Playground or Predatory Market? Safeguarding Kids in the Age of Targeted Advertising



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Digital Playground or Predatory Market? Safeguarding Kids in the Age of Targeted Advertising

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ABSTRACT:

In an era of pervasive digital media, children have become prime targets for increasingly sophisticated marketing strategies, raising critical concerns about product safety, ethical marketing practices, and the efficacy of consumer protection laws. This comprehensive study delves into the complex interplay between these factors, specifically focusing on how they impact the well-being of young consumers. We assess the strengths and shortcomings of existing protections by examining current regulatory frameworks designed to shield children from potentially harmful marketing tactics, particularly in the food industry where promoting unhealthy eating habits is prevalent.

Our research draws upon a diverse array of sources, including recent academic literature, empirical studies, and real-world case analyses to evaluate the effectiveness of current regulations. The study proposes enhanced measures to bolster the safety net for young consumers in an ever-evolving marketplace. By synthesizing insights from legal studies, developmental psychology, and health research, this paper contributes valuable perspectives to the ongoing dialogue surrounding consumer rights and safety, advocating for a paradigm shift towards a more child-centric approach in product safety and marketing regulations.

The study's findings highlight the urgent need for global standardization of safety protocols and more rigorous enforcement mechanisms. A cohesive, international approach is essential to ensure that children's rights and well-being take precedence in all marketing and product safety aspects. This paper illuminates the current challenges and charts a course for future research and policy development in this critical area of consumer protection.

Keywords: Child Consumers, Product Safety, Marketing Ethics, Consumer Protection Laws, Digital Marketing, Food Industry Practices, Regulatory Frameworks, Global Standards

I. INTRODUCTION

In this age of digitalisation, children are increasingly doused in the world of screens and online content, which exposes them to numerous marketing and advertisements of products and services. Advertisements are bombarded everywhere, from social media to mobile games to OTT platforms. In an unrealising way, they impact the minds and influence the perceptions and preferences of children. These pervasive advertisements or marketing messages are tailored in a way to get the attention of children and have control over their preferences. The digital playground, which has become a prominent source of today's children's entertainment, is, unfortunately, the place where children's vulnerabilities are often exploited for commercial gain. The children, from imagining they can replicate the superhuman feats of fictional characters such as 'Shaktimaan' to falling into the traps of alluring advertisements, the naïve and gullibility of young minds persists.

The pervasive advertisements and market strategies targeting children raise severe concerns about product safety, ethical marketing practices, and long-term impact on young minds. Out of every other industry, the food industry poses a dangerous threat to the health of children by promoting unhealthy food and beverage products encouraging children towards unhealthy and poor dietary preferences. In India, 12-15% of advertising expenditure is spent on advertising children's health drinks and cereals, where parents play a significant role as gatekeepers and buyers of brands.¹ As children spend more time in digital environments, their exposure to persuasive marketing for unhealthy products has intensified. This heightened online presence has led to a surge in children's insistence on and craving for these harmful foods and beverages. Consequently, parents find themselves increasingly challenged in their efforts to manage and guide their children's dietary choices, often struggling to control their offspring's eating habits in the face of pervasive digital influences.

1 Dr. S. Kapoor, V. Trivedi, 'Unethical Marketing and Advertising to Children: Need for Regulation', *International Journal on Consumer Law and Practice*, vol. 11, no. 11, 2023, p. 223. available at: <https://repository.nls.ac.in/cgi/viewcontent.cgi?article=1136&context=ijclp> (accessed on 12th September, 2024).

In today's digital landscape, childhood has taken on a new dimension. The once-simple joys of play and discovery have been transformed into a complex arena where innocence collides with influence. "In the digital playground, innocence meets influence: where childhood dreams are shaped by marketing schemes." These carefully crafted campaigns don't just sell products; they shape perceptions, mould preferences, and influence behaviours. As the lines between

II. GLOBAL STANDARDIZATION IN CHILD-CENTRIC REGULATIONS

In an increasingly interconnected world, the safety and well-being of children have become global concerns that transcend national borders. The rapid pace of technological advancement and the globalization of markets have created a complex landscape where children are exposed to a wide array of products and marketing strategies, both physical and digital. This complexity has led to a patchwork of regulations across different countries, each striving to protect their youngest citizens while navigating the realities of international trade and technological innovation. The disparity in these regulations, ranging from product safety standards to marketing restrictions, presents significant challenges for businesses operating globally and for regulators seeking to ensure consistent protection for children. As digital platforms blur geographical boundaries and new products enter the market at an unprecedented rate, the need for a more harmonized approach to child-centric regulations has become increasingly apparent. Global standardization in this area represents a potential solution, offering the promise of uniform protection for children worldwide while streamlining compliance for businesses and fostering innovation within a clear regulatory framework.

The complexity of regulating food marketing to children illustrates the broader challenges in creating child-centric product safety and marketing regulations. A review of existing regulations in over 70 countries reveals significant gaps in the global regulatory environment. While many nations have implemented a range of laws, statutory guidelines, and self-regulatory codes applicable to marketing food to children, these regulations often fail to recognize food as a category requiring special consideration from a public health standpoint. Moreover, there are stark differences in regulatory environments between

countries, with some having abundant regulations and others very few. This disparity extends to enforcement practices, creating an uneven landscape of child protection across the globe².

Further complicating the issue is the rapid evolution of the regulatory environment surrounding food marketing to children. New statutory regulations are continually being proposed and developed, particularly in developed countries grappling with rising rates of childhood obesity and diet-related non-communicable diseases. However, these efforts often focus narrowly on television advertising and in-school product marketing, neglecting the myriad of other marketing techniques employed in the digital age. The lack of a comprehensive, across-the-board approach to regulating various marketing techniques, especially in countries with rapidly rising rates of diet-related health issues, underscores the need for global standardization. This standardization could potentially address not only food marketing but also broader issues of product safety and marketing practices targeting children in our increasingly interconnected world.³

Children are still exposed to a lot of advertisements for bad foods, though. We have argued that self-regulatory pledges led by the sector are often ineffectual or regulation is either nonexistent on a worldwide scale. The regulations that are in place in the few countries where legally binding laws have been introduced are typically too limited in scope to adequately shield children from the marketing of unhealthy foods. Not only do these laws frequently apply to programming that is explicitly aimed at younger audiences, leaving adolescents unprotected, but they also frequently concentrate on traditional media rather than the media content that children of all ages actually watch, leaving a wide variety of media unregulated, especially digital media.⁴

2 Dr. Corinna Hawkes, Marketing Food to Children: the Global Regulatory Environment, 2004, WHO available at: <<https://nepc.colorado.edu/sites/default/files/CERU-0405-215-OWI.pdf>> (accessed 10th September 2024).

3 Dr. Corinna Hawkes, Marketing Food to Children: the Global Regulatory Environment, (n 2) 57-58.

4 Timi Tatlow-Golden, Amandine Garde, Digital food marketing to children: Exploitation, surveillance and rights violations, Global Food Security, Volume 27, 2020, available at: <<https://doi.org/10.1016/j.gfs.2020.100423>> (accessed on 13th September 2024).

III. THE INTERSECTION OF LEGAL, PSYCHOLOGICAL, AND HEALTH FACTORS

Childhood is a unique period of physical, mental, emotional, and spiritual development. Violating a child's rights during this time, such as by exposing them to violence, child labor, dangerous products, or environmental hazards, can have long-lasting, irreversible effects that may even affect future generations.⁵ Everywhere children live, learn, and play such as on TV, around playgrounds and schools, in markets and stores, while watching videos, or on social media, they are every day exposed to unhealthy food marketing. The legal framework governing unhealthy marketing strategies for children is not just a complex system of international agreements, conventions, treaties, and domestic laws. It is a critical tool in the fight to protect children from exploitative marketing. At the forefront of this legal framework is the United Nations Child Rights Convention, a cornerstone document that establishes fundamental rights for children globally. The marketing of products high in fats, sodium, and/or sugar directly impinges on several rights enshrined in the UN CRC. Such exploitative marketing negatively affects children's right to the highest attainable standard of health, adequate food, and privacy, the rights which are of the utmost importance as per UN CRC. It is asserted that states that have ratified this convention possess a significant and legal responsibility to uphold the commitments enshrined in this international human rights treaty. Article 24 of CRC creates an obligation on the state parties to recognize the child's right to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. Further, it also requires state parties to take appropriate measures to ensure the provision of necessary medical assistance and healthcare to all children with an emphasis on the development of primary healthcare and to combat disease and malnutrition, including within the framework of primary healthcare, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution.⁶ Further Article 36 states that States Parties shall protect the child against all other

5 General comment No. 16 (2013) On State obligations regarding the impact of business on children's rights.

6 Article 24 CRC.

forms of exploitation prejudicial to any aspects of the child's welfare.⁷ This broad protection encompasses various forms of exploitation, including those that may arise from unhealthy food marketing practices targeting children.

This legal foundation is further strengthened by the UN Guiding Principles on Business and Human Rights, which emphasizes the necessity of paying special attention to groups at heightened risk of vulnerability or marginalization, such as children.⁸ However, India being a member of the UN and as well as a signatory to the Convention on the Rights of the Child, still lacks legislative provisions and adequate measures to address and control the unhealthy marketing of food and beverages with the goal of targeting children. The Consumer Protection Act, 2019 was primarily introduced to resolve some of the long-standing problems, such as product liability, mediation as an external conflict settlement mechanism, cheating originating from e-commerce transactions, and the implementation of international best practices. One of the major characteristics of the Consumer Protection Act, 2019 is the establishment of statutory bodies which act as district, state, and national advisory bodies. However by analysing the Consumer Protection Act, 2019, it is comprehended that the act discusses the rights of the consumers and has no provisions designed specifically for child consumers and their rights. With the proliferation of creative advertisements enrapturing young minds towards those products and minds being so young that they lack access to information and a sense of understanding, there is a need to update the Consumer Protection Act regulations from the viewpoint of child consumers and child consumer preferences.⁹ It is worth noting that in India, the Ministry of Consumer Affairs has issued Central Consumer Protection Authority (CCPA) guidelines, 2022, which include a rule for advertisements directed towards children. These guidelines are part of the Consumer Protection Act, which

7 Article 36 CRC.

8 E. Boyland, 'Is it ethical to advertise unhealthy foods to children?', *Proceedings of the Nutrition Society*, vol. 82, no. 3, 2023, p. 236. available at: https://www.cambridge.org/core/services/aop-cambridge-core/content/view/019FCC3B8677E513E57E411B4901B979/S0029665123000010a.pdf/is_it_ethical_to_advertise_unhealthy_foods_to_children.pdf (accessed on 12th September 2024).

9 Dr. Suchitra Menon C, Child as a Consumer Perspectives from Law and Behaviour, Live Law, 2020 available at: <https://www.livelaw.in/law-firms/articles/child-as-a-consumer-perspectives-from-law-and-behaviour-159675> (accessed on 9th September 2024).

forbids advertisements that exploit children's inexperience, encourage harmful behavior, or promote unhealthy products. Rule 8 of these CCPA guidelines prohibits the advertisements and promotions of junk food in children's programming and on children's channels, addressing some concerns about unhealthy food marketing to children. However, the implementation and effectiveness of these guidelines in the digital age are yet to be determined.¹⁰

In the case of *Uday Foundation for Congenital Defects and Rare Blood Groups v. Union of India*¹¹ (2015), filed in the public interest flagging the issue of easy availability of junk food, carbonated drinks, etc unhealthy for children, to children and seeking ban on the junk food and carbonated drinks and discouraging the availability of fast food, unhygienic and unhealthy food within 500 yards of the school. The Supreme Court, in this case, explicitly addressed the need for initiatives that would focus on schoolchildren's safety and wellness as well as the necessity of banning fast food and carbonated beverages in schools. In 2017, India drew up a National Multisectoral Action Plan- NMAP which included the enactment of laws, and formulation of appropriate policies, and other regulatory measures for children, specifically designed to protect children, adolescents, and adults from aggressive marketing of unhealthy foods and beverages. adolescents, and adults. NMAP featured the importance of IEA (Information, education, and communication) campaigns to empower consumers among which child consumers were also highlighted. In the NMAP, one of the key risk factors highlighted was an unhealthy diet, and the change in lifestyle driven by unchallenged aggressive marketing strategies of unhealthy foods, beverages, and alcohol industry was identified as one of the challenges in bringing down Non-Communicable Diseases (NCDs). The plan identified action points for 39 ministries/ departments, with several directly impacting children's exposure to unhealthy food marketing. Ministries of Information and Broadcasting (I&B), Commerce, Consumer Affairs and Food Distribution, Law, and Health were tasked to collaboratively regulate the advertisement of demerit goods,

10 Central Consumer Protection Authority. THE GAZETTE OF INDIA/ : EXTRAORDINARY [Press release]. THE GAZETTE OF INDIA,2022, available at: <https://consumeraffairs.nic.in/sites/default/files/file-uploads/latestnews/CCPA%20Notification.pdf> (accessed on 12th September 2024).

11 2015 SCC OnLine Del 8176.

including HFSS food products that often target children. This was to be achieved through “amendment of advertisement code of Cable Television Networks Rules and norms of journalist conduct; and Trademark Rules.”¹² However, it has been 7 years, and very little or no action has been taken by the Government towards this plan to curb advertisements for unhealthy foods.

While NMAP and the Uday Foundation case recognizes the traditional form of advertising and addresses its concern at the national level, the rapid proliferation of digital marketing poses new and complex challenges and requires a global approach to getting regulated. The digital realm, with its personalized targeting capabilities and immersive content, has created a regular blind spot that leaves children particularly vulnerable to sophisticated marketing techniques. In the digital environment, the interactions or engagements such as ‘likes’ or ‘shares’ or ‘comments’, and influencers advertising such unhealthy products make the advertisements have a greater impact on the consumption of unhealthy food and beverages. In the United States of America, 7 out of 10 adolescents (aged 13–17) interact on social media with 1–48 different food and non-alcoholic beverage brands, and 3 out of 10 do so with 5 or more brands.¹³ It has been found that in around 60% of the country, Instagram is the most popular social media platform followed by Facebook and Snapchat.¹⁴ In recent years, there has been a rise in child influencers, a new frontier in digital marketing strategizing to foster more trust among child consumers with respect to such products. These youthful social media influencers are being used more and more to advertise unhealthy meals and drinks, which is a potent marketing tactic that appeals to young consumers.

12 Rema Nagarajan, 7 years gone, little action on govt’s 2017 plan on curbing ads for unhealthy foods, 2024, TOI available at: <https://timesofindia.indiatimes.com/india/7-years-gone-little-action-on-govts-2017-plan-on-curbing-ads-for-unhealthy-foods/articleshow/109742213.cms> (accessed on 14th September 2024).

13 Gabriela Fretes, Digital marketing of unhealthy food and beverages to children and adolescents in Latin America and the Caribbean, 2023, unicef available at: <https://www.unicef.org/lac/media/42156/file/Documento-pol%C3%ADtica-marketing-digital-ing.pdf>. (accessed 10th September 2024).

14 Élisabeth Demers-Potvin, Adolescents’ media usage and self-reported exposure to advertising across six countries: implications for less healthy food and beverage marketing, 2022, BMJ Open available at: <https://bmjopen.bmj.com/content/bmjopen/12/5/e058913.full.pdf>. (accessed on 12th September 2024).

India's regulatory framework for digital marketing to children, particularly concerning unhealthy foods, remains woefully inadequate in the face of rapidly evolving online landscapes. India's burgeoning digital user base i.e., 87.82% of child social media users¹⁵, highlights a critical gap in legislation specifically addressing the promotion of unhealthy foods in digital spaces. This regulatory vacuum stands in stark contrast to the measures implemented for traditional advertising mediums, leaving Indian children particularly exposed to sophisticated online marketing techniques for unhealthy products. Building upon the context of India's digital landscape and its impact on children, it's crucial to examine the country's legislative framework in this domain. India currently lacks comprehensive legislation specifically addressing children's rights in digital spaces, leaving a significant gap in protection against online marketing of unhealthy foods.

The Information Technology Act, 2000, while providing some general protections in the digital realm, falls short in addressing the specific needs and vulnerabilities of children online. This act primarily focuses on cybercrime, electronic commerce, and digital signatures, but does not contain provisions tailored to safeguard children from manipulative digital marketing practices or protect their data privacy rights. The absence of child-specific clauses in this foundational piece of legislation means that children's unique online experiences and potential exploitation through targeted advertising of unhealthy foods remain largely unaddressed. A step towards addressing this gap is the recently enacted Digital Personal Data Protection Act, 2023, which includes provisions for protecting children's data. Section 9 of the act requires all data fiduciaries to obtain verifiable consent from the legal guardian before processing the personal data of a child. It also prohibits tracking, behavioral monitoring, and targeted advertising directed at children, and data fiduciaries must not process personal data in ways that are likely to harm a child's well-being.¹⁶ However, the Act contains potential loopholes that could undermine its effectiveness in protecting children from the digital marketing of unhealthy

15 `Patil M.A, Profile of adolescent social media user in rural area,International Journal of Pediatric research VOL 6 NO 1, (2019) available at: <https://pediatrics.medresearch.in/index.php/ijpr/article/view/458> (accessed on 11th September 2024).

16 Digital Personal Data Protection act 2023 ,Ministry of Electronics and Information Technology, Government of India, 20223 available at: <https://www.meity.gov.in/content/digital-personal-data-protection-act-2023>(accessed on 16th September 2024).

foods. On one hand, where Sections 9(1) to 9(3) of the act specify certain requirements for the same, including parental consent and a prohibition on profiling, on the other hand, Section 9(4) allows the government to exempt any business or class of businesses from Sections 9(1) to 9(3) “subject to such conditions, as may be prescribed. This provision fails to specify on what grounds the exemption will be granted, how the conditions will be determined, and so on and therefore has a tendency to be abused.¹⁷

Compounding these challenges is the jurisdictional issue in regulating digital marketing which presents a fundamental challenge that extends beyond national borders. The Jurisdiction being a multi-faceted concept becomes particularly complex in the digital realm, where the internet’s reach far exceeds the territorial limitations of state authority. In the context of regulating unhealthy food marketing to children, this jurisdictional challenge manifests in several ways. For instance, a social media platform based in one country may serve targeted ads to children in India, creating a complex web of cross-border interactions that defy simple regulatory solutions. The legal authority of Indian regulators, like those of any nation, typically ends at their borders, while the digital marketplace operates globally. The borderless nature of the internet makes it difficult for any single country to effectively regulate digital marketing practices. Many online platforms and advertisers operate across multiple countries, making it challenging for national laws to have a meaningful impact. As the nature of the concept, addressing its challenges too requires a multifaceted approach. While self-regulation by technology companies plays a role, it is insufficient due to inherent conflicts of interest. International cooperation emerges as a crucial component, but progress in this area is often slow and complicated by varying moral, cultural, and legal standards across nations. As we grapple with these complex issues, it becomes clear that protecting children from unhealthy food marketing in the digital age necessitates not just legal compliance, but active political citizenship on a global scale.¹⁸

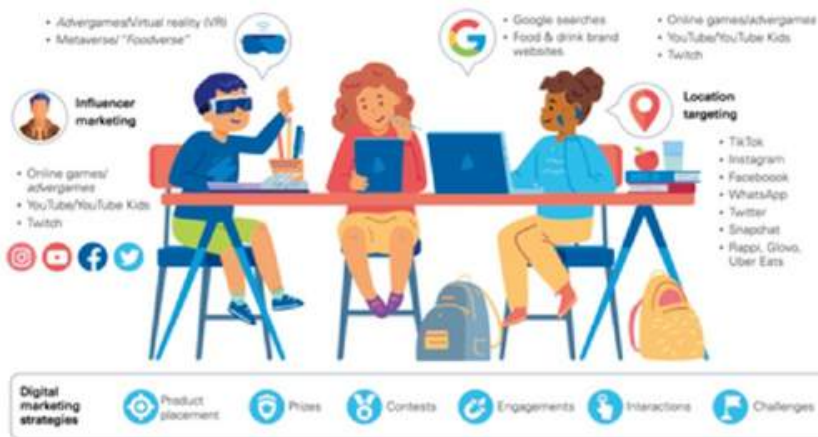
17 Anirudh Burman, Understanding India’s New Data Protection Law. Carnegie India, 2023, available at: https://carnegie-production-assets.s3.amazonaws.com/static/files/Understanding_Indias_New_Data_Protection_Law-3.pdf (accessed on 13th September 2024).

18 Julia Hörnle, The Jurisdictional Challenge of Internet Regulation, OUPblog, 2021 available at: <https://blog.oup.com/2021/03/the-jurisdictional-challenge-of-internet-regulation/>, (accessed on 11th September 2024).

IV. TOWARDS A COMPREHENSIVE REGULATORY FRAMEWORK FOR CHILD-CENTRIC PRODUCT SAFETY AND MARKETING

In developing a comprehensive regulatory framework for child-centric product safety and marketing, several key insights emerge from our analysis. First and foremost, global standardization is crucial in our interconnected world, yet it must be flexible enough to accommodate cultural and economic differences across nations. The borderless nature of digital spaces presents unique challenges, necessitating special consideration in regulatory approaches. Any effective framework must address both product safety and marketing practices, recognizing that these elements are often intertwined in their impact on children. Furthermore, regulatory approaches should be informed by the various stages of child development, acknowledging that children's vulnerabilities and needs evolve as they grow. Lastly, the health impacts of products and marketing practices must be central to regulatory decisions, reflecting the paramount importance of children's physical and mental well-being. By integrating these insights, we can create a more holistic and effective regulatory environment that protects children while navigating the complexities of our global, digital age.

Figure 1. The digital environment as a space in which children and adolescents interact with food and beverage brands and products



Source: Gabriela, Digital marketing of unhealthy food and beverages to children and adolescents in Latin America and the Caribbean¹⁹

19 Gabriela, Digital marketing of unhealthy food and beverages to children and adolescents in Latin America and the Caribbean (n 11), 2-3.

3. Key Components of the Proposed Framework

- a) Together with UNICEF, other United Nations agencies, and academia, carry out a diagnosis of the situation and establish goals and objectives for the regulation of the digital marketing of unhealthy foods and beverages to which children and adolescents are exposed.²⁰
- b) Expand the coverage of digital marketing regulations to all children under the age of 18 years. Ban all commercial advertising to children younger than 7 years, and limit advertising to older children and teenagers. All advertising should be clearly labeled as such (eg, as sponsored content).²¹To implement digital marketing regulations for children without a blanket ban, a nuanced approach is needed. This could involve implementing robust age verification systems on digital platforms, creating tiered advertising restrictions based on age groups, and mandating clear labeling of all sponsored content. Platforms would be required to have separate content policies for different age groups, while advertisers would need to follow strict guidelines on age-appropriate content. Supporting this framework, improved parental controls and digital literacy programs could empower families to make informed decisions. A regulatory body could oversee implementation and conduct regular audits, while industry self-regulation and technological solutions could further enhance compliance. By phasing in these regulations gradually and maintaining flexibility for updates, this approach aims to protect children while still allowing limited, age-appropriate advertising to older children and teenagers.
- c) Regulations should be grounded in scientific evidence and regularly updated to reflect new research findings. For example, the Pan American Health Organization (PAHO) nutrient profile model has been proposed as a basis for defining unhealthy food products (PAHO, 2016). The first food classification tool to use the WHO intake recommendations for critical nutrients of public health concern (i.e., sugars, sodium, total fats, saturated fats, and trans fats)

²⁰ Gabriela, Digital marketing of unhealthy food and beverages to children and adolescents in Latin America and the Caribbean (n 11), 8-9.

as a reference instead of depending on the market of processed and ultra-processed products was the Pan American Health Organization's (PAHO) Nutrient Profile Model, which was established in 2016 because PAHO's Nutrient Profile Model is based on WHO intake objectives of important nutrients, it has been regarded as a best practice for the Region of the Americas (AMRO) and can assist populations in meeting these goals. It has been created and utilized to create and carry out FOPNL (Front Of Pack Nu policies in addition to other regulatory measures pertaining to the prevention and management of obesity and overweight, such as tax laws, marketing limitations, and school food laws.²²

- d) Put into effect the laws that must be passed by governments: It has been shown that mandatory rules work better than voluntary or industry-proposed policies (self-regulation). There is enough evidence to show that self-regulation is not enough to shield kids and teenagers from the influence of marketing for non-alcoholic beverages and unhealthy diets.²³
- e) Use standardized methods for assessment and monitoring to guarantee that policies are implemented effectively: Because of the challenges associated with real-time monitoring, evaluating the effects of marketing on the digital environment is especially challenging. Because digital marketing operations typically occur within a "black box," unavailable to academics and even regulators,

21 Jenny Radesky, Digital advertising to children, *Pediatrics*, 2020 Volume 146, Issue 1 available at: <https://doi.org/10.1542/peds.2020-1681> (accessed on 10th September 2024).

22 Crosbie E, Gomes FS, Olvera J, Rincón-Gallardo Patiño S, Hoepfer S, Carriedo A. A policy study on front-of-pack nutrition labeling in the Americas: emerging developments and outcomes. *Lancet Reg Health Am.* 2022 <[https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9950544/#:~:text=The%20Pan%20American%20Health%20Organization%27s%20\(PAHO\)%20Nutrient%20Profile%20Model%2C,in%20stead%20of%20relying%20on%20the](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9950544/#:~:text=The%20Pan%20American%20Health%20Organization%27s%20(PAHO)%20Nutrient%20Profile%20Model%2C,in%20stead%20of%20relying%20on%20the)> (accessed on 9th September 2024).

23 Frances Fleming-Milici, Jennifer L. Harris, Food marketing to children in the United States: Can industry voluntarily do the right thing for children's health? *Physiology & Behavior*, Volume 227, 2020, available at: <https://doi.org/10.1016/j.physbeh.2020.113139> (accessed on 9th September 2024).

the sophistication of digital marketing also presents measurement issues.²⁴

V. CONCLUSION

The prevalence of digital marketing aimed at children, especially for unhealthy food and drink items, poses considerable obstacles to protecting juvenile consumers in the digital era. This study has brought attention to how inadequate the current regulatory frameworks are, particularly in developing nations like India, to deal with the quickly changing online advertising landscape. There is a dire need for the global standardization of regulations, however, difficulty arises due to jurisdictional concerns and different cultural norms in different countries. The United Nations Convention on the Rights of the Child provides a foundational framework for protecting children's rights, including their right to health and protection from exploitation. However, these ideas are still not consistently and frequently are not effectively applied in the digital sphere. Digital marketing techniques, like the use of child influencers and personalized targeting, present new and complex challenges that call for creative approaches to regulation.

To address these challenges, a thorough and multi-faceted approach is required. This should involve enforcing mandatory regulations rather than depending on industry self-regulation, defining unhealthy products using standards based on science, and extending digital marketing regulations to include all children under the age of 18. Standardized techniques for evaluation and oversight must also be created to guarantee successful policy execution. The proposed regulatory framework must be adaptable enough to accommodate cultural and economic differences between countries while retaining a core set of universal protections. It should address both product safety and marketing practices, acknowledging their mutual influence on children's well-being. Furthermore, the framework should take into account the various stages of child development, recognizing that vulnerabilities and needs change as children grow.

24 Tatlow-Golden and Mimi, Daniel Parker, 'The Devil Is in the Detail: Challenging the UK Government's 2019 Impact Assessment of the Extent of Online Marketing of Unhealthy Foods to Children', *International Journal of Environmental Research and Public Health*, vol. 17, no. 19, October 2020, 7231, <doi.org/10.3390/ijerph17197231>, (accessed on 5th September 2024).

International cooperation emerges as an essential component in addressing the global nature of digital marketing. However, progress in this area is frequently slowed and complicated by differences in legal standards across countries. As a result, protecting children from unhealthy food marketing in the digital age requires more than just legal compliance, but also active political citizenship on a global scale. In conclusion, the protection of children from exploitative digital marketing practices, particularly those promoting unhealthy foods and beverages, requires urgent and concerted action. This involves updating legal frameworks, enhancing international cooperation, and fostering a global commitment to prioritizing children's health and well-being over commercial interests. Only through such extensive and collective efforts, a digital environment can be created that genuinely protects children's rights and fosters their healthy development on a global scale.



AGENDA

PROTECT AND SERVE:

THE 2024 INTERNATIONAL CONFERENCE ON PRODUCT SAFETY AND CONSUMER ADVOCACY

SEPTEMBER 20-21, 2024

TENTATIVE CONFERENCE SCHEDULE

SESSION TITLE	SPEAKERS/MODERATORS	SESSION TIME
Inaugural Session Moderator Ms. Isha Patel B.A. LL. B III	Welcome Address & Opening Remarks, (Introduction of the Chief Guests) Ms. Samrudhee Shah, Assistant Professor, Dr. D.Y. Patil Law College, Pimpri	10:00 am - 10:10 am
	Introduction & Objective of Conference: Ms. Ugochi Obidiegwu, Founder, The Safety Chic, Nigeria	10:10 am - 10:20 am
	Inauguration & Inaugural Address Hon'ble Justice Paramjeet Singh Dhaliwal, Former Judge of Punjab and Haryana High Court & Former Member of Consumer Commission	10:20 am - 10.40 am
	Address by Chief Guest: Mr. Arnau Izaguerra Vila Legal Officer, Competition and Consumer Policies en UNCTAD	10:40 am - 11.00 am
	Presidential Remarks: Dr. S. S. Gopakumar Sir I/C Principal, Dr. D.Y. Patil Law College, Pimpri	11:00 am - 11:10 am
	Vote of Thanks: Ms. Shivanjali Mane, Co-ordinator, Senior Researcher, Ramkrishna Law Firm & Research Centre.	11:10 am - 11:20 am
Session Break 11:20 am -11:30 am <u>TECHNICAL SESSIONS</u> TECHNICAL SESSION 1 20 September, 2024		
Guardians of Growth: Advancing Safety Standards for Children's Products	Introduction and Welcome (Introduction of the Resource Persons) Mr. Sagar Verma Assistant Professor, Dr. D.Y. Patil Law College, Pimpri	11:30 am - 11:40 am

Chairperson/Judges: 1)Dr. Sourabh V.C. Ubale Sir 2)Ms. Diseye Oba Moderator: Nivedita Roy B.A. LL.B. IV	Keynote Speaker 1: Ms. Ugochi Obidiegwu Founder, The Safety Chic, Nigeria	11:40 am - 12:00 pm
	Keynote Speaker 2: Dr. Pratap B. Salunke, Officer on Special Duty -Vice Chancellor Office (OSD-VC Office), Associate Dean & Associate Professor, Maharashtra National Law University, Mumbai.	12:00 pm - 12.20pm
	Question/Answer for the Resource Persons	12.20pm - 12.30pm
	Introduction of the Chairpersons by the Moderator	
	Presentation 1: Balancing Economics and Safety: The Interplay Between Product Safety Standards and International Trade Laws in The Global Children's Product Industry <ul style="list-style-type: none"> • Mr. Moulitharun. S • Mr. Sharuk Ahamed.S 	12.30 pm - 12.40 pm
	Presentation 2: Maternal Awareness and its Impact on Children's Product Safety: A Study with reference to Mangaluru. <ul style="list-style-type: none"> • Ms. Vanessa Monteiro • Ms. Vinita Deepa Lobo 	12.40 p.m.- 12.50 p.m.
	Presentation 3: The Evils of Adulterated Social Media and Saddened Face on Child Consumer Protection in India with Special Reference to Tamil Nadu” – The Earnest Exploration <ul style="list-style-type: none"> • Ms. N. Reena Roy • Ms. E. Deepa 	12.50 p.m.-1.00 p.m.
	Presentation 4: Safety standard for Children's Products <ul style="list-style-type: none"> • Dr. Aparna J Shinde 	1.00 p.m. - 1.10 p.m.
	Chairpersons Address & Feedback	1.10 p.m. - 1.25 p.m.
Vote of Thanks Mr. Murali G Manjarekar Co-ordinator, Researcher, Ramkrishna Law Firm & Research Centre	1.25 p.m. - 1.30 p.m.	
PARALLEL SESSION 1: 20 September, 2024		
Chairperson/Judges: 1) Dr. Apoorva Dixit 2) Dr. Saleem Shaikh Sir	Welcome and Introduction of Judges Mrs. Deepali Shitole Ma'am Assistant Professor Dr. D.Y.Patil Law College, Pimpri	12.20p.m. – 12.30p.m.

Moderator: Ms. Isha Patel B.A. LL.B III	Presentation 5: Influencers and Skincare Product Safety: Analysing the Implications of Non-Professional Endorsements for Consumer Protection and Dermatological Integrity. <ul style="list-style-type: none"> • Mr. Jaisri Y R 	12.30 p.m. - 12.40 p.m.
	Presentation 6: A Critical Perspective on The Role of Social Media Influencers In Product Safety And Consumer Protection Dr. Thippeswamy S	12.40 p.m. - 12.50 p.m.
	Presentation 7: Parental Rights and Responsibilities in the Age of Consumerism <ul style="list-style-type: none"> • Dr. Datta Kumar • Dr. Caroleena Janefer 	12.50 p.m. - 1.00 p.m.
	Presentation 8: Consumer Safety and Environmental Protection: A Legal Perspective on Sustainable Practices and Regulatory Frameworks <ul style="list-style-type: none"> • Ms. Amulya Raj 	1.00 p.m. - 1.10 p.m.
	Chairpersons Address & Feedback	1.10 p.m. – 1.25 p.m.
	Vote of Thanks Mrs. Prafullata Nigade Ma'am Assistant Professor, <ul style="list-style-type: none"> • Dr. D.Y. Patil Law College, Pimpri 	1.25 p.m. – 1.30 p.m.

LUNCH BREAK-1.30 p.m. to 2.30 p.m.
TECHNICAL SESSION 2
20 September, 2024

Securing the Future: Enhancing Product Safety in the Digital Realm Chairperson/Judges: 1) Dr. Sourabh V.C. Ubale Sir 2) Ms. Diseye Oba	Welcome and Introduction of Resource Persons Mr. Arjun Somwanshi Assistant Professor, <ul style="list-style-type: none"> • Dr. D.Y. Patil Law College, Pimpri 	2:30 p.m. - 2:40p.m.
	Keynote Speaker 1: Mr. Antonino Serra Cambaceres, International Expert Consumer Law and Protection, Argentina	2:40 p.m. - 3:00p.m
	Keynote Speaker 2: Dr. Pratima Narayan Advocate & Co-founder, Techlawlogi, Consulting LLP, Bangalore	3.00 p.m. - 3.20p.m.
	Question/Answer for the Resource Persons	3.20 p.m. - 3.30 p.m.
	Introduction of the Judges by the Moderator	
	Presentation 9: Digital Dining: Assessing Consumer Protection in Online Food Delivery Services” <ul style="list-style-type: none"> • Ms. Saritha Crasta 	3.30 p.m. -3.40 p.m.

Moderator: Gautam Patel - B.A. LLB III	Presentation 10: Digital Playground or Predatory Market? Safeguarding Kids in the Age of Targeted Advertising <ul style="list-style-type: none"> • Ms. Tejashwini PNeeralakeri • Ms. Vishakha Burnwal 	3.40 p.m. - 3.50 p.m.
	Presentation 11: A Study on Future of Internet of Things & Cyber Security: Trends and Predictions for A Safe Digital World <ul style="list-style-type: none"> • Miss Kasha fanhir Khan • Dr. Shipra S. Singam 	3.50 p.m. - 4.00 p.m.
	Presentation 12: Product Safety in E-Commerce: A Consumer Protection Perspective <ul style="list-style-type: none"> • Dr. Jehirul Islam 	4.00 p.m. - 4.10 p.m.
	Chairpersons Address & Feedback	4.10 p.m. - 4.25 p.m.
	Vote of Thanks Ms. Amarachi Iheagwam, COO, The Safety Chic.	4.25 p.m.- 4.30 p.m.
PARALLEL SESSION 2: 20 September, 2024		
Chairperson/Judges: 1)Dr. Apoorva Dixit Madam	Welcome & Introduction of Judges Mrs. Preeti Pawar Ma'am Assistant Professor, <ul style="list-style-type: none"> • Dr. D.Y. Patil Law College, Pimpri 	3.20 p.m. - 3.30 p.m.
	2)Dr. H. Kadri Sir	Presentation 13: Securing The Future: The Economics Behind Parental Preferences for Safe Consumer Products <ul style="list-style-type: none"> • Dr. Anju Harbansh
Moderator: Sindhuja - B.A. LL. B II	Presentation 14: Influencer Ethics: Protecting Consumers <ul style="list-style-type: none"> • Dr. Caroleena Janefer • Dr. Bharathi 	3.40 p.m - 3.50 p.m.
	Presentation 15: Evaluating consumer trust and security in E-commerce-A study of online shopping concerns <ul style="list-style-type: none"> • Ms. Anisha A Kulal • Ms. Rishal Disha Dsouza 	3.50 p.m. - 4.00 p.m.
	Chairpersons Address & Feedback	4.00 p.m. - 4.10 p.m.
	Vote of Thanks Mrs. Vanita Mohod Ma'am Assistant Professor, Dr. D.Y. Patil Law College, Pimpri	4.10 p.m.- 4.15 p.m.

DAY 2- 21 September, 2024
TECHNICAL SESSION 3

<p>Green Guard: Integrating Sustainability with Product Safety</p> <p>Chairperson/Judges: 1)Ms. Diseye Oba</p> <p>2)Dr. Saleem Shaikh Sir</p> <p>Moderator: Sindhuja - B.A. LL.B II</p>	<p>Welcome and Introduction of the Resource Persons Mr. Pradeep Kendre Assistant Professor, Dr. D.Y. Patil Law College, Pune</p>	<p>10:00 am -10:10 am</p>
	<p>Keynote Speaker 1 Dr. Julius Akpong Head, QHSE, Egbin Power Plc, Nigeria</p>	<p>10:10 am -10:30 am</p>
	<p>Keynote Speaker 2 Dr. Sushila, Associate Professor, Project Director, Chair on Consumer Law, National Law University, Delhi.</p>	<p>10.30 am – 10.50 am</p>
	<p>Question/Answer for the Resource Persons</p>	<p>10.50 am – 11.00 am</p>
	<p>Introduction of the Judges by the Moderator</p>	<p>11.00 am – 11.05 am</p>
	<p>Presentation 16: Consumer Protection in the Digital Age: Examining the Role of Safety Standards and Liability in Online Transactions</p> <ul style="list-style-type: none"> • K.Aswini • P.V Mounika 	<p>11:05 am -11:15 am</p>
	<p>Presentation 17: The impact of safety standards on international trade laws in children's products Dr. Piyush Kumar Kiradoo</p>	<p>11:15 am -11:25 am</p>
	<p>Presentation 18: How Far Do Product Liability Laws In India Attain Sustainability? A Critical Analysis Mr. Praseetha N.U</p>	<p>11:25 am -11:35 am</p>
	<p>Chairpersons Address & Feedback</p>	<p>11:35 am -11:55 am</p>
	<p>Vote of Thanks Ms. Amarachi Iheagwam, COO, The Safety Chic, Nigeria.</p>	<p>11:55 am -12:00 pm</p>

Session Break
12:00 p.m. - 12.15 p.m.
TECHNICAL SESSION 4
21 September, 2024

<p>Chairperson/Judges: 1)Ms. Diseye Oba</p>	<p>Welcome and Introduction of the Judges Dr. Vijeta Chaudhary Ma'am, Assistant Professor Dr. D.Y. Patil Law College, Pimpri</p>	
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2)Dr. Saleem Shaikh Sir Moderator- Arunima Ghosh - B.A. LL. B IV	Presentation 19: A study on the influence of demographic conditions on parent's purchasing behaviour. • Miss Swara S. Gote • Master Om M. Gudadhe	12: 15 pm -12:25 pm
	Presentation 20: Assessing the Impact of Microplastics in Food: A Comparative Legal Analysis of India and Global Standards • Ms. Shivani Dutta • Mr. Sanjay Utagi	12:25 pm -12:35 pm
	Special Presentation: Ensuring Consumer Protection: An examination of Food Supplements Safety and Regulatory Framework” Ms. Nina Kriznik Food Expert, Slovene Consumers' Association, Member, Food Expert Group, The European Consumer Organisation BEUC, EU.	12:35 pm -12:45 pm
	Presentation 21: Global Harmonization: Cross-Border Strategies for Product Safety and Consumer Protection • Miss Kaza Mounika Lakshmi Sruti	12:45 pm -12.55 pm
	Presentation 22: Leveraging AI in Empowering consumers negotiate fair terms in Consumer contracts • Ms. Anakha Angeline Anilesh	12.55 pm -01:05 pm
	Presentation 23: Child Consumers and Product Liability Regime Dr. Vikas Trivedi	1:05 p.m. -1:15 p.m.
	Chairpersons Address & Feedback	1:15 p.m. -1:25 p.m.
	Vote of Thanks Dr. Vijeta Chaudhary Assistant Professor Dr. D.Y. Patil Law College, Pune	1:25 p.m.- 1:30 p.m.
LUNCH BREAK Valedictory Session 21st September, 2024		
Valedictory Session Shivanjali Mane - Moderation	Welcome of Chief Guest for Valedictory Miss. Shivanjali Mane Senior Researcher Ramkrishna Law Firm and Research Centre, Chikodi	3:00 p.m. – 3:10 p.m.
	Report of the Proceedings and placing Resolution by Coordinator Ms. Ugochi Obidiegwu Founder, The Safety Chic.	3:10 p.m. – 3:40 p.m.

	Valedictory address Prof. Dr. Dilip Ukey, Vice Chancellor, Maharashtra National Law University, Mumbai	3:40 p.m. – 4.00 p.m.
	Result Announcements and Distribution of Certificate- Best Presenter	4:00 p.m. – 4.10 p.m.
	Closing Remarks Dr. S.S. Gopakumar Sir I/C Principal, Dr. D.Y. Patil Law College, Pimpri	4:00 p.m. – 4.20 p.m.
	Vote of Thanks Ms.Samrudhee Shah Assistant Professor, Dr. D.Y. Patil Law College, Pimpri	4:20 p.m. – 4.30 p.m.

Organizing Committee



Ms. Samrudhee Shah
Assistant Professor
Dr. D. Y. Patil Law College



Dr. Vijeta Chaudhary
Assistant Professor
Dr. D. Y. Patil Law College



Mr. Sagar Verma
Assistant Professor
Dr. D. Y. Patil Law College



Ms. Amarachi Iheagwam
Chief Operation Officer
The Safety Chic



Ms. Shivanjali Mane
Advocate
Bombay High Court



Mr. Murali G Manjarekar
Senior Researcher
Ramkrishna Law Firm
and Research Centre,
Chikodi



Ms. Nivedita Roy
Student B.A.LL.B
Dr. D. Y. Patil Law College



Mr. Rohan Lokhande
Student B.A.LL.B
Dr. D. Y. Patil Law College



Mr. Gautam Patel
Student B.A.LL.B
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Dr. D. Y. Patil Unitech Society believes in attaining excellence in the field of education for the benefit of both privileged and underprivileged students, offering education from kindergarten to post-graduate levels. Dr. D. Y. Patil Law College, established in 2001 and affiliated with Savitribai Phule Pune University, is recognized by the Government of Maharashtra and approved by the Bar Council of India. The Institute is accredited by NAAC with a CGPA of 2.91 on a four-point scale at a 'B++' grade and holds ISO 9001:2015 and 14001:2015 certifications. It stands as a leading institution in legal education, committed to fostering academic excellence and producing competent legal professionals.

The Institute offers a comprehensive curriculum, state-of-the-art facilities, and a conducive learning environment. It not only imparts legal education but also caters to the vocational needs of students by providing internship opportunities to help them connect classroom teaching with real-world applications. Additionally, the Institute is focused on enhancing its research wing by delving into legal, interdisciplinary, and multidisciplinary research projects. It organizes seminars, conferences, and workshops and publishes its double-blind peer-reviewed law journal titled *Pimpri Law Review (PLR)* (ISSN: 2583-5947, Online), which is released bi-annually.

The Institute is actively involved in community service through its Legal Aid Centre, providing legal assistance and creating awareness in both rural and urban areas in collaboration with the District Legal Service Authority and Pune District Court. Furthermore, it has earned recognition for organizing national-level mediation competitions judged by esteemed international mediators. The Institute has also successfully conducted national moot court competitions, which have attracted enthusiastic participation from prestigious law schools across India.

The Safety Chic, Nigeria

The Safety Chic is a child safety social enterprise based in Nigeria, established to increase safety consciousness and reduce preventable accidents affecting children. It achieves this by developing safety education products and programs for children and educators. The Train Them Young Initiative (#2TYI) is The Safety Chic's signature effort to reach young children across the country with basic safety skills, enabling them to protect themselves in different situations. Their unique approach of providing safety education using fun methods has helped them gain and sustain the attention of children while sharing valuable safety information. The ultimate goal is to equip children with basic safety skills, empowering them to protect themselves in various scenarios.

RamKrishna Law Firm and Research Centre, Chikodi

The Ramkrishna Law Firm and Research Centre, founded in 1994 in Chikodi, Karnataka, is renowned for its expertise in legal research, analysis, and the dissemination of legal knowledge. The firm specializes in advising, consulting, and representing clients in legal matters before various courts, tribunals, and statutory authorities. Committed to providing personalized legal counsel, ethical practice, and innovative solutions, the firm also emphasizes legal awareness and education through workshops, camps, and internships. With a team of experienced attorneys and researchers, the firm has made significant contributions to advancements in various research projects and collaborates with institutions to enhance its legal services and educational initiatives.



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