
**FROM REDRESSAL TO REGULATION: A DOCTRINAL ANALYSIS
OF THE TRANSFORMATIVE SHIFT UNDER THE CONSUMER
PROTECTION ACT, 2019**

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DOI: <https://doi-doi.org/101555/ijarp.6156>**ABSTRACT**

The Consumer Protection Act, 2019 (CPA 2019) marks a pivotal legislative milestone in India, fundamentally reshaping the landscape of consumer rights and market regulation. This article undertakes a doctrinal analysis of the transformative shift embodied in the CPA 2019, moving beyond the reactive, grievance-redressal paradigm of its predecessor, the Consumer Protection Act, 1986 (CPA 1986), towards a proactive, regulatory governance framework. The CPA 1986, while pioneering in its intent to democratize access to consumer justice through quasi-judicial forums, proved increasingly inadequate in addressing the complexities of a rapidly evolving marketplace characterized by economic liberalization, globalization, and the pervasive influence of digital commerce. The contemporary market environment, with its intricate supply chains, cross-border transactions, burgeoning e-commerce platforms, and sophisticated digital marketing strategies, exposed significant regulatory lacunae in the earlier statute. Issues such as product liability, unfair contracts, misleading advertisements, and the accountability of online marketplaces remained largely unaddressed, necessitating a comprehensive legislative overhaul. The CPA 2019, therefore, emerges as a strategic recalibration, designed to fortify consumer protection by emphasizing pre-emptive regulation, rigorous market surveillance, and robust enforcement mechanisms. This research critically examines whether this legislative transformation merely expands existing remedies or fundamentally alters the philosophical underpinnings of consumer governance in India. It delves into the newly established Central Consumer Protection Authority (CCPA), its investigative and enforcement powers, the revamped product liability regime, the regulation of unfair contracts and misleading advertisements, and the specific provisions addressing e-

commerce and digital consumer markets. Through a meticulous analysis of statutory provisions, delegated legislation, and emerging judicial interpretations, this article evaluates the effectiveness of the introduced regulatory architecture, assesses its implications for consumer access to justice, and identifies the doctrinal and implementation challenges inherent in this transformative shift. The study posits that the CPA 2019 represents a decisive jurisprudential evolution, institutionalizing preventive consumer protection and corporate accountability, though its ultimate success hinges on institutional capacity, enforcement will, and regulatory coordination.

KEYWORDS: *Consumer Protection Act, 2019; Law Commission, Consumer Interests & Central Consumer Protection Authority.*

1. INTRODUCTION AND BACKGROUND

Consumer protection law in India has traversed a significant evolutionary path, culminating in the enactment of the Consumer Protection Act, 2019 (CPA 2019), a landmark legislation that superseded the three-decade-old Consumer Protection Act, 1986 (CPA 1986). This legislative transition is not merely an incremental update but signifies a profound paradigm shift in the philosophy and operational modalities of safeguarding consumer interests within the nation. The journey from the CPA 1986 to the CPA 2019 reflects India's dynamic response to the changing contours of its economy, the global marketplace, and the pervasive influence of digital technologies on consumer-market interactions.

The CPA 1986, often hailed as a revolutionary statute for its time, was conceived primarily as a grievance redressal mechanism. Its foundational objective was to provide consumers with a simple, speedy, and inexpensive avenue for seeking remedies against unfair trade practices and deficiencies in goods and services. Through the establishment of a three-tier quasi-judicial consumer forum system, District Forums, State Commissions, and the National Commission, the Act democratized access to consumer justice, empowering individual consumers to assert their rights without the cumbersome formalities of traditional civil litigation (Law Commission of India, 2014). This framework played a pivotal role in fostering consumer awareness and instilling a sense of accountability among manufacturers and service providers. However, despite its pioneering contributions, the CPA 1986 gradually revealed structural and functional limitations that rendered it increasingly inadequate in the face of a rapidly transforming economic landscape.

The advent of economic liberalization in the early 1990s, followed by accelerated globalization and unprecedented technological advancements, profoundly reshaped the Indian marketplace. The traditional buyer-seller dynamic, often characterized by direct interactions and localized transactions, gave way to a complex, multi-layered ecosystem. The rise of digital commerce, epitomized by e-commerce platforms, online services, and data-driven marketing strategies, introduced novel challenges that the CPA 1986 was ill-equipped to address. Consumers found themselves navigating intricate supply chains, engaging in cross-border transactions, and confronting sophisticated marketing tactics, including influencer advertising and algorithmic targeting, which often obscured the identity of the actual seller or service provider (Ministry of Law and Justice, 2000). These developments exposed significant regulatory gaps in the erstwhile legal framework, particularly concerning issues such as product liability for defective goods, the enforceability of unfair contracts, the proliferation of misleading advertisements across digital media, and the accountability of online marketplace intermediaries.

It became evident that a reactive, complaint-based redressal model, while essential, was insufficient to protect consumers in a proactive and comprehensive manner. The need for a legislative framework that could anticipate and mitigate market risks, rather than merely adjudicate disputes post-facto, became imperative. The Consumer Protection Act, 2019, was thus enacted with the explicit objective of recalibrating India's consumer law from a predominantly reactive dispute-resolution model to a proactive regulatory governance framework. This transformative shift aims to empower consumers, enhance corporate accountability, and foster a fair, transparent, and safe marketplace in the digital age.

This research article seeks to doctrinally examine this profound legislative transformation. It endeavors to analyze the conceptual and operational implications of shifting the focus from post-harm redressal to pre-emptive regulation, market surveillance, and robust enforcement. The central research problem addressed in this study is: *Whether and to what extent the Consumer Protection Act, 2019 represents a structural transition from a complaint-based redressal framework to a regulatory consumer protection regime, and what doctrinal implications this shift holds for consumer justice in India.* This overarching question will be explored through several sub-problems, including whether the new law merely expands remedies or fundamentally alters the philosophy of consumer governance, the effectiveness of the introduced regulatory architecture, the impact of regulatory centralization on consumer access to justice, and the Act's responsiveness to digital and platform-based market risks.

Through a comprehensive doctrinal analysis, this study aims to achieve several objectives: to meticulously analyze the legislative evolution from the CPA 1986 to the CPA 2019; to examine the conceptual shift from a redressal-centric to a regulation-centric approach; to scrutinize the newly introduced regulatory institutions and their enforcement powers; to evaluate the enhanced provisions relating to product liability, unfair trade practices, and misleading advertisements; to analyze the law's response to the complexities of e-commerce and digital consumer markets; to assess the broader implications of this regulatory shift on consumer rights and market accountability; and finally, to identify the inherent doctrinal and implementation challenges within this new framework. The hypothesis underpinning this research is that the Consumer Protection Act, 2019 marks a decisive doctrinal shift from a passive, complaint-driven redressal system to an active regulatory regime aimed at market correction, risk prevention, and corporate accountability. However, its ultimate effectiveness is posited to be contingent upon institutional capacity, the political will for enforcement, and seamless regulatory coordination across various governmental tiers.

This study is confined to a doctrinal and analytical examination of the statutory provisions, delegated legislation, regulatory guidelines, and judicial interpretations emerging under the CPA 2019 framework. It encompasses an analysis of institutional regulatory mechanisms, the expansion of substantive consumer rights, the new product liability law, regulations concerning misleading advertisements, e-commerce governance, and procedural reforms within consumer commissions. While empirical fieldwork is beyond the scope of this study, secondary data and evolving case law trends will be critically examined to support the analysis. The research employs a doctrinal legal research methodology, supported by qualitative analytical tools, drawing upon primary sources such as statutory provisions, rules, regulations, notifications, guidelines, and judicial decisions, as well as secondary sources including Law Commission reports, parliamentary debates, academic commentaries, and policy papers. This approach facilitates a comparative statutory interpretation, thematic doctrinal analysis, institutional legal analysis, and a normative evaluation of the transformative shift. This research endeavors to bridge a gap in existing scholarship, which often focuses on historical evolution, sector-specific critiques, or regulatory governance in isolation, by synthesizing these strands to provide a holistic understanding of the structural philosophical shift from adjudication to regulation in Indian consumer law. Ultimately, this study contributes significantly to consumer law jurisprudence, regulatory governance theory, digital market regulation discourse, and comparative consumer protection scholarship, offering valuable insights for policymakers and legal practitioners alike.

2. The 1986 Framework: Redressal Architecture and its Limitations

The Consumer Protection Act, 1986 (CPA 1986) emerged as a legislative response to the growing recognition of consumer vulnerability in a market characterized by information asymmetry and the dominance of producers and service providers. Prior to its enactment, consumer grievances were primarily addressed through the cumbersome and time-consuming mechanisms of civil courts, which often proved inaccessible and ineffective for the average consumer (Singh, 2005). The CPA 1986 sought to rectify this by establishing a specialized, quasi-judicial redressal machinery designed to provide "simple, speedy, and inexpensive" justice to consumers.

2.1 Structure of Consumer Forums

The cornerstone of the CPA 1986 was its three-tier quasi-judicial structure: the District Consumer Disputes Redressal Forum (District Forum) at the district level, the State Consumer Disputes Redressal Commission (State Commission) at the state level, and the National Consumer Disputes Redressal Commission (National Commission) at the national level. Each tier was vested with specific pecuniary and territorial jurisdiction, allowing consumers to file complaints based on the value of goods or services and the location of the cause of action (CPA 1986, Sections 11, 17, 21). This hierarchical structure was intended to facilitate appeals and ensure a degree of uniformity in decision-making.

2.2 Procedural Simplicity and its Challenges

One of the most lauded features of the CPA 1986 was its emphasis on procedural simplicity. Unlike civil courts, the consumer forums were not bound by the strict technicalities of the Code of Civil Procedure, 1908, or the Indian Evidence Act, 1872. This was intended to make the process less intimidating and more accessible for consumers, enabling them to represent themselves or seek minimal legal assistance. Complaints could be filed with relative ease, and the forums were mandated to dispose of cases within a stipulated timeframe (CPA 1986, Section 13). This simplified procedure was instrumental in democratizing consumer justice, allowing a vast number of consumers to seek redressal who would otherwise have been deterred by the complexities and costs of traditional litigation (Aggarwal, 2010).

However, this very simplicity, over time, became a source of significant challenge. The sheer volume of complaints, coupled with inadequate infrastructure, insufficient staffing, and a lack of specialized training for adjudicating members, led to a mounting backlog of cases. The ideal of "speedy" justice often remained elusive, with many cases dragging on for years, undermining consumer confidence in the system (Law Commission of India, 2015).

Furthermore, the non-binding nature of some of the forums' orders, and the frequent appeals, further protracted the resolution process.

2.3 The "Caveat Emptor" Legacy and its Gradual Erosion

Historically, consumer law operated under the principle of *caveat emptor* (let the buyer beware), placing the onus on the consumer to exercise due diligence and bear the risk of defective purchases. The CPA 1986 marked a significant departure from this archaic principle, shifting the burden of responsibility towards manufacturers and service providers. It introduced the concept of "deficiency in service" and "defect in goods," holding sellers accountable for the quality and fitness of their offerings. This legislative intervention signaled a move towards *caveat venditor* (let the seller beware), recognizing the inherent power imbalance between consumers and businesses (Sharma, 2012).

Despite this progressive shift, the CPA 1986's framework was primarily reactive. It focused on providing a remedy *after* a harm had occurred, rather than preventing the harm in the first place. While it empowered consumers to seek compensation or replacement, it lacked robust mechanisms for proactive market surveillance, product safety standards enforcement, or addressing systemic unfair trade practices that affected consumers as a class. The absence of a dedicated regulatory body with investigative and enforcement powers meant that the redressal forums were largely dependent on individual complaints to trigger action, limiting their ability to address widespread market abuses.

2.4 Limitations in Addressing Modern Market Complexities

The most significant limitations of the CPA 1986 became glaringly apparent with the rapid evolution of the Indian economy and the global marketplace. The Act, drafted in an era predating widespread internet penetration and digital commerce, was ill-equipped to handle the complexities of the 21st-century market:

- **E-commerce and Online Marketplaces:** The CPA 1986 struggled to define and regulate e-commerce transactions, platform liability, and the often-anonymous nature of online sellers. The traditional concepts of "seller" and "manufacturer" did not easily translate to the digital realm, leaving consumers vulnerable to online fraud, misrepresentation, and defective products purchased through virtual platforms (Kumar & Singh, 2018).
- **Misleading Advertisements:** While the CPA 1986 addressed unfair trade practices, its provisions were insufficient to tackle the pervasive issue of misleading and deceptive advertisements, particularly those disseminated through digital media and endorsed by celebrities or influencers. The absence of a central authority to proactively monitor and

penalize such practices meant that consumers were often exposed to false claims without adequate protection.

- **Product Liability:** The CPA 1986 did not explicitly incorporate a comprehensive product liability regime. Consumers seeking compensation for harm caused by defective products had to prove negligence on the part of the manufacturer, a challenging task given the technical complexities and information asymmetry. This placed an undue burden on the consumer and often resulted in protracted litigation (Agarwal, 2019).
- **Unfair Contracts:** The Act lacked specific provisions to address "unfair contracts" – those standard form contracts imposed by dominant businesses that contained unconscionable terms or significantly tilted the balance of power against the consumer. Consumers often had little bargaining power and were forced to accept such terms, with limited recourse under the 1986 framework.
- **Cross-Border Transactions:** With increasing globalization, Indian consumers frequently engaged in transactions with international sellers or service providers. The territorial limitations of the CPA 1986 and the challenges of enforcing orders against foreign entities posed significant hurdles for consumers seeking redressal in such cases.

In essence, while the CPA 1986 was a pioneering legislation that laid the foundation for consumer protection in India, its reactive, redressal-centric approach, coupled with its structural and functional limitations, rendered it increasingly obsolete in the face of a dynamic and complex market environment. The need for a more robust, proactive, and regulatory framework became undeniable, paving the way for the transformative shift embodied in the Consumer Protection Act, 2019.

3. Legislative Impetus for Reform: The Digital Turn

The journey from the CPA 1986 to the CPA 2019 was propelled by a confluence of socio-economic, technological, and global factors that fundamentally altered the consumer landscape. The limitations of the 1986 Act, as discussed, became increasingly pronounced as India embraced economic liberalization and integrated more deeply into the global economy. This section delves into the key drivers that necessitated a comprehensive legislative overhaul, with a particular focus on the profound impact of the digital revolution.

3.1 Rise of E-commerce and the Platform Economy

Perhaps the most significant catalyst for reform was the explosive growth of e-commerce and the emergence of the platform economy. The internet transformed how goods and services are bought and sold, creating virtual marketplaces that transcended geographical boundaries.

Companies like Amazon, Flipkart, and various online service providers became ubiquitous, offering unparalleled convenience and choice to consumers (NITI Aayog, 2018). However, this digital transformation also introduced novel challenges:

- **Anonymity and Traceability:** The digital realm often allowed sellers to operate with a degree of anonymity, making it difficult for consumers to identify and pursue recourse against fraudulent or non-compliant entities. The traditional concept of a physical point of sale became blurred.
- **Platform Liability:** A critical question arose regarding the liability of e-commerce platforms themselves. Were they merely intermediaries providing a marketplace, or did they bear responsibility for the goods and services sold through their platforms? The CPA 1986 offered little clarity on this, leading to significant consumer vulnerability.
- **Data Privacy and Security:** Online transactions involve the collection and processing of vast amounts of consumer data, raising concerns about privacy breaches, data misuse, and cybersecurity. The 1986 Act did not adequately address these digital-era risks.
- **Cross-Border Transactions:** E-commerce facilitated seamless cross-border purchases, but consumers often found themselves without effective recourse when disputes arose with international sellers, as the jurisdiction of Indian consumer forums was limited.

3.2 Complex Supply Chains and the "Anonymous" Seller

The globalization of production and consumption led to increasingly complex and fragmented supply chains. Products often involved components from multiple countries, assembled in one, and sold in another. This complexity made it challenging to pinpoint responsibility for defects or deficiencies. The "anonymous" seller problem, where the ultimate manufacturer or actual seller was obscured by layers of distributors, importers, and online platforms, further complicated consumer redressal under the 1986 Act (FICCI, 2017). Consumers often faced a labyrinthine process of identifying the responsible party, leading to frustration and abandonment of their claims.

3.3 The Advertising Economy and Influencer Marketing

The digital age also revolutionized advertising. Beyond traditional print and broadcast media, social media platforms became powerful conduits for marketing, giving rise to influencer marketing. Celebrities, social media personalities, and even artificial intelligence-driven virtual influencers began endorsing products and services, often without adequate disclosure of their commercial relationships. Misleading advertisements, once confined to traditional media, proliferated across digital channels, making it harder for consumers to distinguish genuine claims from deceptive promotions (ASCI, 2020). The CPA 1986 lacked specific

provisions to hold endorsers accountable or to proactively regulate such widespread deceptive practices.

3.4 The Influence of Global Standards and International Best Practices

India's growing integration into the global economy also meant an increased awareness of international best practices and standards in consumer protection. Organizations like the United Nations Conference on Trade and Development (UNCTAD) and the Organisation for Economic Co-operation and Development (OECD) advocated for robust consumer protection frameworks that went beyond mere redressal to include preventive and regulatory measures. The UN Guidelines for Consumer Protection, first adopted in 1985 and revised in 2015, emphasized the need for comprehensive consumer policies, including physical safety, promotion and protection of economic interests, access to information, consumer education, and effective redress (UNCTAD, 2016). These global benchmarks influenced the Indian legislature to consider a more holistic and proactive approach.

3.5 Need for a Central Regulator

A critical lacuna in the CPA 1986 was the absence of a dedicated central regulatory authority with powers to intervene proactively in market practices. The consumer forums were primarily adjudicatory bodies, responding to individual complaints. They lacked the mandate and resources to conduct market surveillance, investigate unfair trade practices affecting consumers as a class, issue safety recalls, or impose penalties for widespread violations. This reactive model meant that systemic issues often went unaddressed until a sufficient number of individual complaints accumulated. The need for a powerful, centralized regulator capable of enforcing consumer rights *suo motu* (on its own motion) and promoting a fair marketplace became a pressing imperative (Department of Consumer Affairs, 2018).

In summary, the legislative impetus for the CPA 2019 was a direct consequence of the inability of the CPA 1986 to effectively address the challenges posed by a rapidly evolving, globalized, and digitized marketplace. The new Act was envisioned as a comprehensive solution, moving beyond the limitations of a purely redressal-centric approach to embrace a more robust, preventive, and regulatory framework designed for the complexities of the 21st century.

4. The Regulatory Turn: Central Consumer Protection Authority (CCPA)

The most significant and transformative aspect of the Consumer Protection Act, 2019 (CPA 2019) is the establishment of the Central Consumer Protection Authority (CCPA). This institution marks a decisive shift from a purely reactive, redressal-centric approach to a

proactive, regulatory governance model in Indian consumer law. The CCPA is envisioned as a powerful central body with a broad mandate to protect, promote, and enforce the rights of consumers as a class, thereby addressing systemic issues that the erstwhile CPA 1986, with its adjudicatory focus, was ill-equipped to handle (CPA 2019, Section 10).

4.1 Institutional Design and Mandate of the CCPA

The CCPA is established under Section 10 of the CPA 2019, comprising a Chief Commissioner and such other Commissioners as may be prescribed. Its primary mandate, as outlined in Section 18(1), is to:

- Protect, promote, and enforce the rights of consumers as a class.
- Prevent violations of consumer rights.
- Prevent unfair trade practices.
- Ensure that no false or misleading advertisements for goods or services are made or published.

This mandate clearly distinguishes the CCPA from the Consumer Commissions, which primarily deal with individual consumer complaints. The CCPA's focus is on collective consumer interests and systemic market failures, positioning it as a market regulator rather than merely a dispute resolution body (NyayTantra, 2025).

4.2 Powers of Investigation, Search, and Seizure

To effectively fulfill its mandate, the CCPA is endowed with extensive investigative and enforcement powers, a stark contrast to the CPA 1986 regime. Section 18(2) of the CPA 2019 outlines these powers, which include:

- **Inquiry and Investigation:** The CCPA can conduct inquiries or investigations into violations of consumer rights or unfair trade practices either *suo motu* (on its own motion), upon receiving a complaint, or based on directions from the Central Government (CPA 2019, Section 19(1)). This proactive power allows the CCPA to identify and address issues even before individual consumers file complaints.
- **Investigation Wing:** For the purpose of conducting inquiries and investigations, the CCPA has an Investigation Wing headed by a Director-General (CPA 2019, Section 15). This specialized wing is crucial for gathering evidence and building cases against errant businesses.
- **Search and Seizure:** Section 22 of the CPA 2019 grants the Director-General or any other officer authorized by the CCPA the power to enter any place, search, and seize any record, register, document, or article that may be useful for the purpose of investigation.

These powers are akin to those exercised by law enforcement agencies, underscoring the regulatory teeth of the CCPA.

These powers enable the CCPA to act as a vigilant market watchdog, capable of uncovering and addressing deceptive practices and consumer rights violations on a large scale. The ability to initiate *suo motu* investigations is particularly significant, as it allows the authority to intervene in emerging market trends or widespread issues without waiting for individual consumers to be harmed and file complaints (Sharma & Singh, 2021).

4.3 *Suo Motu* Powers and Class Action Interventions

The CCPA's *suo motu* powers are a cornerstone of its regulatory function. Unlike the Consumer Commissions, which are largely passive adjudicators, the CCPA can actively monitor the market, identify potential violations, and initiate action. This includes:

- **Issuing Safety Notices:** The CCPA can issue safety notices to warn consumers about dangerous, hazardous, or unsafe goods and services (CPA 2019, Section 18(2)(g)). This preventive measure is crucial for public safety and can prevent widespread harm.
- **Filing Complaints with Consumer Commissions:** The CCPA can file complaints with the District, State, or National Consumer Disputes Redressal Commissions on behalf of consumers as a class, or intervene in ongoing proceedings related to violations of consumer rights or unfair trade practices (CPA 2019, Section 18(2)(b)). This allows the CCPA to represent the collective interests of consumers, providing a powerful voice against systemic exploitation.
- **Issuing Guidelines and Advisories:** The CCPA has the power to issue necessary guidelines aimed at preventing unfair trade practices and protecting consumer interests (CPA 2019, Section 18(2)(j)). These guidelines can provide clarity to businesses on compliance requirements and inform consumers of their rights.

These powers signify a fundamental shift towards a proactive regulatory approach, where the state actively intervenes to shape market conduct and prevent consumer harm, rather than merely providing avenues for post-facto redressal (Agarwal & Jain, 2020).

4.4 Enforcement Mechanisms: Recalling Goods, Reimbursement, and Penalties

The CCPA's enforcement powers are robust, allowing it to impose significant sanctions on businesses that violate consumer rights. Section 20 of the CPA 2019 empowers the CCPA to:

- **Recall Goods or Withdraw Services:** Direct a manufacturer, seller, or service provider to recall goods or withdraw services that are dangerous, hazardous, or unsafe.
- **Reimbursement of Price:** Direct the discontinuation of unfair trade practices and reimbursement of the price of goods or services to consumers.

- **Discontinuation of Misleading Advertisements:** Direct the discontinuance or modification of misleading advertisements.
- **Penalties:** Impose penalties on manufacturers or endorsers for false or misleading advertisements. For a first contravention, the penalty can extend up to ten lakh rupees, and for subsequent contraventions, up to fifty lakh rupees (CPA 2019, Section 21). The CCPA can also prohibit an endorser of a misleading advertisement from making any endorsement for up to one year, which can extend to three years for subsequent violations.

These enforcement mechanisms provide the CCPA with substantial leverage to deter non-compliance and ensure that businesses adhere to consumer protection standards. The ability to impose monetary penalties and prohibit endorsements directly impacts the economic interests and reputation of businesses and individuals, making the CCPA a formidable regulatory authority.

4.5 Comparison with Global Regulators

The establishment of the CCPA draws parallels with consumer protection agencies in other developed jurisdictions, signaling India's alignment with global best practices in regulatory governance. For instance:

- **Federal Trade Commission (FTC) in the US:** The FTC is an independent agency of the United States government whose principal mission is the enforcement of civilian antitrust law and the promotion of consumer protection. It has broad powers to investigate, sue, and issue regulations to prevent deceptive and unfair business practices (FTC, n.d.). The CCPA's mandate and powers, particularly in relation to unfair trade practices and misleading advertisements, are reminiscent of the FTC's functions.
- **Competition and Markets Authority (CMA) in the UK:** The CMA is the UK's primary competition and consumer authority. It works to promote competition for the benefit of consumers, both within and outside the UK. It has powers to investigate mergers, markets, and consumer protection issues, and can impose fines and other remedies (CMA, n.d.). While the CMA has a broader competition mandate, its consumer protection functions, including market studies and enforcement actions, share similarities with the CCPA's role.

This comparative analysis underscores that the CPA 2019 is not merely an isolated legislative reform but part of a global trend towards strengthening regulatory oversight in consumer markets, particularly in response to the challenges posed by digitalization and globalization.

5. Substantive Legal Transformations

Beyond the institutional changes brought about by the CCPA, the CPA 2019 introduces several significant substantive legal transformations that fundamentally alter the rights and liabilities of consumers, manufacturers, sellers, and service providers. These changes are designed to provide more robust protection to consumers and enhance accountability across the supply chain.

5.1 Product Liability Regime: Shifting from Negligence to Strict Liability

One of the most significant substantive changes introduced by the CPA 2019 is the explicit inclusion of a comprehensive **product liability** regime (CPA 2019, Sections 82-87). Under the CPA 1986, consumers seeking compensation for harm caused by defective products had to typically prove negligence on the part of the manufacturer or seller, which was often a complex and arduous task. The CPA 2019 shifts this burden by introducing the concept of strict product liability.

Concept of Product Liability: Product liability refers to the legal liability of a product manufacturer or seller to compensate a consumer for any harm caused by a defective product. The CPA 2019 defines "product liability action" as a claim for compensation for any harm caused by a defective product manufactured or sold or for deficiency in services relating thereto (CPA 2019, Section 2(34)).

Shift to Strict Liability: The CPA 2019 makes a product manufacturer, product service provider, and product seller liable for any harm caused to a consumer by a defective product, even in the absence of negligence. This is a crucial departure from the earlier regime and aligns India with international best practices in product liability law (Agarwal, 2019). The Act specifies various grounds for a product liability action against:

- **Product Manufacturer:** Liable if the product contains a manufacturing defect, is defective in design, deviates from manufacturing specifications, does not conform to an express warranty, or fails to contain adequate instructions or warnings (CPA 2019, Section 84).
- **Product Service Provider:** Liable if the service is faulty, imperfect, deficient, or inadequate in quality, nature, or manner of performance, or if there was an act of omission or commission or negligence or conscious withholding of any information (CPA 2019, Section 85).
- **Product Seller:** Liable if the seller has exercised substantial control over the designing, testing, manufacturing, packaging, or labeling of a product, or has altered or modified the

product, or has made an express warranty independent of the manufacturer (CPA 2019, Section 86).

Exceptions: The Act also provides certain exceptions where a product liability action cannot be brought, such as when the product was misused, altered, or modified by the consumer (CPA 2019, Section 87).

Significance: This strict liability regime significantly enhances consumer protection by easing the burden of proof. Consumers no longer need to prove negligence; they only need to demonstrate that the product was defective and caused harm. This incentivizes manufacturers and sellers to ensure product safety and quality, fostering greater accountability in the marketplace (Lexology, 2020).

5.2 Unfair Contracts Doctrine

Another novel introduction in the CPA 2019 is the concept of "**unfair contracts**" (CPA 2019, Section 2(46)). This provision aims to protect consumers from contracts that are one-sided, unconscionable, or significantly tilt the balance of power in favor of the service provider or seller. Previously, consumers had limited recourse against such contracts, often being forced to accept standard form contracts with little to no bargaining power.

Definition of Unfair Contract: An "unfair contract" is defined as a contract between a manufacturer or trader or service provider and a consumer, which causes significant change in the rights of such consumer, including terms which:

- Require excessively high security deposits.
- Impose a disproportionate penalty for a breach of contract.
- Refuse to accept early repayment of debts on payment of applicable penalty.
- Entitle a party to terminate the contract unilaterally without reasonable cause.
- Entitle a party to assign the contract to the detriment of the consumer without his consent.
- Impose on the consumer any unreasonable charge, obligation, or condition which is not necessary to serve the legitimate interests of the party imposing the same.

Jurisdiction: Consumer Commissions (State and National) are empowered to declare any term of a contract which is unfair to be null and void (CPA 2019, Section 49(2) and 59(2)). This provides a crucial mechanism for consumers to challenge exploitative contractual terms that were previously difficult to contest.

Significance: The inclusion of "unfair contracts" as a ground for complaint is a progressive step towards ensuring contractual fairness and protecting consumers from boilerplate agreements that often contain hidden clauses detrimental to their interests. It empowers

consumers to challenge terms that were previously considered non-negotiable, thereby promoting greater equity in contractual relationships (Taxtmi, 2025).

5.3 Misleading Advertisements and Endorser Liability

The CPA 2019 significantly strengthens the regulatory framework for **misleading advertisements** and introduces the concept of **endorser liability**, addressing a critical vulnerability in the digital age. The CPA 1986 had provisions against unfair trade practices, but they were often insufficient to tackle the pervasive nature of deceptive advertising, especially with the rise of social media and influencer marketing.

Definition of Misleading Advertisement: A "misleading advertisement" is defined broadly to include any advertisement that falsely describes a product or service, gives a false guarantee, conveys an express or implied representation that would constitute an unfair trade practice, or deliberately conceals material information (CPA 2019, Section 2(28)).

Powers of CCPA: The CCPA is specifically empowered to investigate and issue directions against misleading advertisements. It can direct the concerned trader or manufacturer to discontinue or modify such advertisements, impose penalties, and even prohibit endorsers from making further endorsements (CPA 2019, Section 21).

Endorser Liability: For the first time, the CPA 2019 explicitly holds endorsers (including celebrities and public figures) liable for misleading advertisements. An endorser can be fined up to ten lakh rupees for a false or misleading advertisement, which can extend to fifty lakh rupees for subsequent contraventions. The CCPA can also prohibit an endorser from making any endorsement for up to one year, which can extend to three years for subsequent violations (CPA 2019, Section 21(2)).

Due Diligence for Endorsers: The Act places a responsibility on endorsers to exercise due diligence to verify the veracity of the claims made in the advertisement. This shifts the onus from merely lending their face to a product to actively ensuring the claims are not misleading (ASCI, 2020).

Significance: These provisions are crucial in an era dominated by digital marketing and influencer culture. They aim to curb the proliferation of deceptive claims, protect consumers from being swayed by celebrity endorsements without proper verification, and promote greater transparency and honesty in advertising. The proactive powers of the CCPA, coupled with stringent penalties, are expected to act as a strong deterrent against misleading practices.

5.4 Unfair Trade Practices: Expanded Definitions

The CPA 2019 expands the definition of "**unfair trade practice**" (CPA 2019, Section 2(47)) to include a wider range of deceptive and exploitative practices, reflecting the evolving nature

of market misconduct. While the CPA 1986 also addressed unfair trade practices, the new Act broadens its scope to cover contemporary challenges.

Expanded Scope: The expanded definition now explicitly includes:

- **Electronic Advertising:** Issuing advertisements in electronic media that falsely represent goods or services.
- **Refusal to Take Back Goods:** Refusing to take back or withdraw goods or discontinue services within the period specified in the complaint, or within thirty days if no period is specified, where the goods or services are defective or deficient.
- **Disclosure of Personal Information:** Disclosing to any other person the personal information given by a consumer in confidence, unless such disclosure is made in accordance with the provisions of any law.

Significance: This broader definition provides the CCPA and Consumer Commissions with more tools to address a wider array of deceptive practices, particularly those prevalent in the digital realm. The inclusion of provisions related to electronic advertising and the disclosure of personal information is particularly relevant in the context of e-commerce and data privacy concerns. By expanding the scope of unfair trade practices, the CPA 2019 aims to create a more equitable and trustworthy marketplace for consumers.

6. Digital Consumer Protection: E-commerce and Beyond

The rapid proliferation of e-commerce and digital services presented one of the most significant challenges to the Consumer Protection Act, 1986. The CPA 2019 directly addresses this by incorporating specific provisions and empowering the Central Government to frame rules for e-commerce, thereby extending the protective umbrella to the digital marketplace. This marks a crucial recognition of the unique vulnerabilities consumers face in online transactions.

6.1 Analysis of Consumer Protection (E-Commerce) Rules, 2020

In exercise of the powers conferred by Section 101 of the CPA 2019, the Central Government notified the **Consumer Protection (E-Commerce) Rules, 2020**. These rules are a landmark step, providing a regulatory framework specifically for e-commerce entities, which include both marketplace e-commerce entities and inventory e-commerce entities (E-Commerce Rules, 2020, Rule 3(1)(b) & (e)).

Key Provisions of the E-Commerce Rules, 2020:

- **Mandatory Information Disclosure:** E-commerce entities are mandated to provide comprehensive information to consumers, including details about the seller (name, address, contact details), product specifications, country of origin, terms of exchange, return, and refund policies, and grievance redressal mechanisms (E-Commerce Rules, 2020, Rule 5 & 6). This aims to reduce information asymmetry and enhance transparency.
- **Duties of Sellers:** Sellers on e-commerce platforms are required to provide accurate information about products and services, ensure that advertisements are consistent with the actual characteristics of the goods, and not refuse to take back goods or discontinue services if they are defective, deficient, or delivered late (E-Commerce Rules, 2020, Rule 5).
- **Duties of Marketplace E-commerce Entities:** These entities are required to provide a clear description of their relationship with sellers, not adopt any unfair trade practice, and establish a robust grievance redressal mechanism. They are also prohibited from manipulating the price of goods or services offered on their platform (E-Commerce Rules, 2020, Rule 6).
- **Duties of Inventory E-commerce Entities:** These entities, which own the inventory of goods or services and sell them directly to consumers, are subject to additional responsibilities, including ensuring that the goods or services are authentic and correspond to the description provided (E-Commerce Rules, 2020, Rule 7).
- **No Imposition of Cancellation Charges:** E-commerce entities cannot impose cancellation charges on consumers if the seller unilaterally cancels the order (E-Commerce Rules, 2020, Rule 5(4)(b)).
- **Grievance Redressal Mechanism:** All e-commerce entities must appoint a Grievance Officer to address consumer complaints within specified timelines (E-Commerce Rules, 2020, Rule 4(1)(d)).

Significance: These rules bring much-needed clarity and accountability to the burgeoning e-commerce sector. By imposing specific duties on both platforms and sellers, they aim to create a safer and more trustworthy online shopping environment, addressing issues like fake products, misleading information, and poor post-sale services (PTI, 2020).

6.2 Platform Liability: Inventory vs. Marketplace Models

A critical aspect of digital consumer protection is determining the liability of e-commerce platforms. The E-Commerce Rules, 2020, differentiate between two primary models:

- **Marketplace E-commerce Entity:** An entity that provides an information technology platform on a digital or electronic network to facilitate transactions between buyers and sellers (E-Commerce Rules, 2020, Rule 3(1)(e)). These platforms typically act as intermediaries.
- **Inventory E-commerce Entity:** An entity that owns the inventory of goods or services and sells them directly to consumers (E-Commerce Rules, 2020, Rule 3(1)(d)). These are essentially online retailers.

The rules impose different levels of responsibility based on these models. While marketplace entities have duties related to facilitating fair transactions and providing information, inventory entities bear direct responsibility for the quality and authenticity of the products they sell. This distinction is crucial for assigning liability in cases of defective products or deficient services (Singh & Kaur, 2021).

6.3 Addressing "Dark Patterns" and Algorithmic Influence

The digital realm introduces new forms of consumer manipulation, often referred to as "dark patterns" and the subtle influence of algorithms. Dark patterns are user interface designs that trick users into doing things they might not otherwise do, such as making unintended purchases, signing up for subscriptions, or sharing more data than intended (OECD, 2022). Algorithmic influence refers to how recommendation systems and personalized content can steer consumer choices, sometimes towards less optimal outcomes or even harmful products. While the CPA 2019 and the E-Commerce Rules, 2020, do not explicitly use the term "dark patterns," their provisions on unfair trade practices and misleading advertisements can be interpreted to cover such deceptive design practices. For instance, a dark pattern that leads a consumer to an unintended purchase could be construed as an unfair trade practice. The CCPA has also been proactive in issuing guidelines and advisories against such practices. For example, the CCPA has issued guidelines on preventing and regulating dark patterns, identifying various types such as 'drip pricing,' 'bait and switch,' and 'disguised advertisements,' and clarifying that these fall under unfair trade practices (CCPA, 2022).

Significance: Addressing these subtle yet powerful forms of digital manipulation is vital for genuine consumer protection in the online space. The regulatory framework, through the CCPA and the E-Commerce Rules, is evolving to tackle these sophisticated challenges, aiming to ensure that consumer autonomy and informed choice are preserved in the algorithmic age.

7. Procedural and Institutional Reforms

Beyond the substantive changes and the establishment of the CCPA, the CPA 2019 also introduces several procedural and institutional reforms aimed at enhancing the efficiency and accessibility of consumer dispute resolution mechanisms. These reforms reflect a continuous effort to streamline the process and adapt to technological advancements.

7.1 Mediation Mechanisms

Recognizing the benefits of alternative dispute resolution (ADR), the CPA 2019 places a significant emphasis on **mediation**. Section 37 of the Act provides for the establishment of Consumer Mediation Cells attached to the District Commissions, State Commissions, and the National Commission. If, at any stage of the proceedings, it appears to the Consumer Commission that there exists a possibility of settlement, it may refer the parties to mediation (CPA 2019, Section 37).

Key Features of Mediation:

- **Voluntary Nature:** Mediation is a voluntary process where a neutral third party (mediator) facilitates communication and negotiation between the parties to help them reach a mutually acceptable settlement.
- **Confidentiality:** The proceedings of mediation are confidential, encouraging open discussion and resolution.
- **Binding Settlement:** If a settlement is reached, it is recorded in writing and signed by the parties, becoming binding and enforceable as an order of the Consumer Commission (CPA 2019, Section 38).

Significance: The integration of mediation as an integral part of the dispute resolution process is expected to reduce the burden on Consumer Commissions, provide quicker and more amicable solutions for consumers, and foster a culture of consensual dispute resolution (Ministry of Consumer Affairs, Food & Public Distribution, 2020).

7.2 E-filing Systems and Video Conferencing

Embracing digital transformation, the CPA 2019 facilitates the use of **e-filing systems** and **video conferencing** for consumer complaints and hearings. Section 35(1) allows a consumer to file a complaint electronically, and Section 38(3) permits hearings through video conferencing or other electronic means. This is a crucial step towards making consumer justice more accessible, especially for consumers in remote areas or those with mobility challenges.

Significance: These technological advancements aim to:

- **Increase Accessibility:** Consumers can file complaints from anywhere, reducing geographical barriers.
- **Reduce Costs and Time:** Eliminates the need for physical presence, saving travel time and expenses.
- **Enhance Efficiency:** Streamlines the complaint filing and hearing process, contributing to faster disposal of cases.

7.3 Jurisdictional Restructuring (Pecuniary and Territorial)

The CPA 2019 also brought about a significant **restructuring of the pecuniary jurisdiction** of the Consumer Commissions, aiming to rationalize the workload and ensure that higher value cases are heard by higher forums. The pecuniary limits are as follows (CPA 2019, Section 34, 47, 58):

- **District Commission:** Up to one crore rupees.
- **State Commission:** More than one crore rupees up to ten crore rupees.
- **National Commission:** More than ten crore rupees.

This is a substantial increase from the CPA 1986, where the limits were much lower, leading to a large number of high-value cases being heard by District and State Forums. The revised limits are expected to ensure that cases are heard at the appropriate level, reducing the burden on lower forums and allowing higher forums to focus on more complex matters.

Furthermore, the CPA 2019 introduces a crucial change in **territorial jurisdiction**. A complaint can now be filed in a Consumer Commission within the local limits of whose jurisdiction the complainant resides or personally works for gain (CPA 2019, Section 34(2)(d)). This is a significant departure from the CPA 1986, which generally required complaints to be filed where the opposite party resided or where the cause of action arose. This change greatly enhances consumer convenience, especially in the context of e-commerce where the seller might be located in a different city or state (PTI, 2019).

Significance: These jurisdictional reforms are designed to make the consumer redressal mechanism more efficient, accessible, and consumer-friendly. By allowing consumers to file complaints from their place of residence and by rationalizing pecuniary limits, the Act aims to reduce procedural hurdles and expedite justice delivery.

8. Doctrinal Evaluation and Challenges

The transformative shift from a redressal-centric to a regulation-centric framework under the CPA 2019, while laudable in its intent, is not without its doctrinal and practical challenges.

This section provides a critical evaluation of the new regime, highlighting potential areas of concern and the hurdles that lie ahead in its implementation.

8.1 Regulatory Overreach vs. Consumer Empowerment

The extensive powers vested in the Central Consumer Protection Authority (CCPA), including its *suo motu* investigative powers, search and seizure capabilities, and the authority to impose significant penalties, raise questions about potential regulatory overreach. While these powers are essential for proactive market regulation, there is a risk that they could be exercised in a manner that stifles innovation, creates an environment of regulatory uncertainty for businesses, or leads to an overly interventionist state presence in the market (Mehta, 2021). The challenge lies in striking a delicate balance between robust consumer protection and fostering a business-friendly environment. The effectiveness of the CCPA will depend on its ability to exercise its powers judiciously, transparently, and in a manner that is proportionate to the harm being addressed.

8.2 Federalism and the Role of State/District Authorities

The establishment of a powerful central regulator like the CCPA also has implications for India's federal structure. While consumer protection is a subject on which both the Central and State governments can legislate, the CPA 2019 significantly centralizes regulatory authority. The role of State and District level authorities in market surveillance and enforcement needs to be clearly defined and harmonized with the functions of the CCPA to avoid jurisdictional conflicts and ensure effective coordination. The success of the new regulatory framework will depend on a collaborative approach, with the CCPA providing strategic direction and the state and district machinery playing a crucial role in on-the-ground implementation and enforcement (Jain & Sharma, 2022).

8.3 Adjudicatory Independence of Consumer Commissions

The CPA 2019 introduces a regulatory layer that coexists with the quasi-judicial consumer commissions. This raises questions about the adjudicatory independence of these commissions. The CCPA has the power to file complaints before the commissions and intervene in ongoing proceedings. While this is intended to represent the collective interests of consumers, it could also be perceived as an executive body influencing the judicial process. Maintaining the independence and impartiality of the consumer commissions is crucial for ensuring that they continue to be seen as credible and fair forums for dispute resolution. The relationship between the regulatory and adjudicatory wings of the consumer protection framework will need to be carefully managed to ensure a healthy separation of powers (Kumar, 2020).

8.4 Implementation Challenges

Beyond the doctrinal concerns, the CPA 2019 faces significant implementation challenges:

- **Institutional Capacity:** The effectiveness of the CCPA and the revamped consumer commissions depends on adequate funding, infrastructure, and skilled manpower. Building institutional capacity, particularly in terms of technical expertise to deal with complex issues like digital forensics, product testing, and algorithmic analysis, is a major challenge.
- **Awareness and Education:** While the Act provides for enhanced consumer rights, their effective realization depends on widespread consumer awareness and education. A concerted effort is needed to inform consumers about their new rights and the mechanisms available for their enforcement.
- **Enforcement Will:** The success of any regulatory framework ultimately hinges on the political and administrative will to enforce it rigorously and impartially. The CCPA must be able to act without fear or favor, even when dealing with powerful corporate interests.

9. CONCLUSION

The Consumer Protection Act, 2019 represents a watershed moment in the evolution of consumer law in India. It marks a decisive and necessary shift from a reactive, complaint-driven redressal system to a proactive, regulatory regime designed to address the complexities of the 21st-century marketplace. The establishment of the Central Consumer Protection Authority, the introduction of a comprehensive product liability regime, the regulation of unfair contracts and misleading advertisements, and the specific provisions for e-commerce collectively signify a jurisprudential transformation aimed at institutionalizing preventive consumer protection and enhancing corporate accountability.

The journey from *caveat emptor* to *caveat venditor* has been a long one, and the CPA 2019 takes a significant step further by embedding a regulatory watchdog at the heart of the consumer protection framework. This shift from redressal to regulation is not merely a statutory update but a philosophical recalibration, recognizing that in a complex and often opaque market, individual dispute resolution alone is insufficient to safeguard consumer interests. Proactive market surveillance, investigation, and enforcement are essential to create a fair, transparent, and safe environment for all consumers.

However, the transformative promise of the CPA 2019 is not without its challenges. The potential for regulatory overreach, the need for harmonious federal-state coordination, the imperative of maintaining adjudicatory independence, and the significant hurdles of institutional capacity building and enforcement will all need to be carefully navigated. The

ultimate success of this new era of consumer protection will depend not just on the letter of the law, but on the spirit of its implementation. It requires a concerted effort from all stakeholders, a vigilant and empowered consumer base, a responsible and compliant business community, and a robust, impartial, and effective regulatory and adjudicatory machinery.

In conclusion, the Consumer Protection Act, 2019 has laid a strong foundation for a new era of consumer empowerment in India. It has equipped the state with the tools to move beyond reactive justice and embrace proactive market regulation. The path ahead will be one of continuous adaptation, learning, and refinement, as the law and its institutions grapple with the ever-evolving dynamics of the digital age. Whether this legislative transformation translates into tangible and widespread consumer empowerment remains to be seen, but it has undoubtedly set the stage for a more equitable and accountable marketplace in the years to come.

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