

## A Comparative Study of the Law Relating to Consumer Protection in India

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### ABSTRACT

Initially the nature of the market system was different. Earlier the seller used to reach the buyer. There used to be markets in the village, which used to be held once a week or once a month. The seller used to reach the village by carrying the goods at his own expense. His responsibility was more, his labor was more, and his role was more. This system changed with time. The nature of the market changed. When there was a market system in which the seller is situated in permanent market system and the buyer goes to market. If buyer purchased anything, then the buyer had more responsibility regarding purchasing the goods. It was his responsibility to purchase the items thoughtfully as per his purpose and to inspect them thoroughly, if he found any defects, seller is not responsible for any product failure or if any defect is discovered in the goods. Now the buyer is responsible for the same and the seller is responsible for that defect. The rule of buyer beware (Caveat Emptor) was prevalent in practice but with time this system changed and its change changed the nature of this law. Now in the market system, the buyer reaches the seller and the sellers sell their goods in a permanent form. Markets are always established permanently. In such a system, the rule of buyer beware is no longer appropriate. Now the era of consumer protection has started. In which

the rights of the buyer are protected. Now it is not known from which country the goods come. Goods started being imported and exported. Due to the development of technology, the appearance of the goods changed which the local people cannot know and their defects cannot be detected during immediate testing. In such a situation, the issue of consumer protection comes into play if the goods do not suit the consumer's purposes or have any defects as claimed by the seller and if the goods are not found to be as per the seller's claim, then the buyer's interests are <sup>1</sup> at stake and will be protected and this protection effort came to be known as consumer protection. The present era is the era of consumer protection. Various laws are prevalent in many countries of the world which are committed to protecting the interests of consumers. In our country, there is a law related to this and judicial efforts have also been made. The Consumer Act, 1986 is a big step towards consumer protection. Apart from this, there are other statutes which ensure consumer protection. The 2019 amendment is another evolutionary step in this direction which ensures consumer protection. In the presented research paper, an attempt has been made to further clarify consumer protection by doing a comparative study between the amendments of 2019<sup>2</sup> and the old laws.

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Consumer Protection Laws play a pivotal role in safeguarding the rights and interests of consumers in the marketplace. Consumer protection is a fundamental element of any modern market economy. It is vital for safeguarding the rights and interests of consumers, instilling trust in commerce, and ensuring equitable transactions. Over time, consumer protection laws have evolved to address emerging challenges, innovations, and shifts in the marketplace. The enactment of the Consumer Protection Act in 1986 marked a significant milestone in this ongoing development. Decades later, the introduction of the

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<sup>1</sup> The Consumer Protection Act, 1986

ACT NO. 68 OF 1986

<sup>2</sup> The Consumer Protection Act, 2019

New Consumer Protection Act in 2019 sought to reinvigorate and refine these protections in response to the dynamic landscape of modern commerce.

Consumer Protection is not just a legal matter; it is a cornerstone of economic stability and social well-being. A robust and effective legal framework provides consumers with the confidence they need to participate in the marketplace. It also ensures that businesses operate within ethical and legal boundaries, fostering trust and equity in economic transactions.

As we delve deeper into this comparative analysis, we aim to gain a clearer understanding of how these legal remedies impact consumers, businesses, and the broader marketplace. This research not only identifies the progress made but also highlights areas where further improvements may be necessary. Ultimately, it seeks to contribute to the ongoing discourse on consumer protection in an era of rapid change and global interconnectivity.

The Consumer Protection Act of 1986 marked a significant development in India's legal framework, particularly with regard to protecting the rights and interests of consumers. Under this act, consumers were provided with a set of legal remedies to address grievances, seek redress, and hold businesses accountable for unfair trade practices. This section examines the legal remedies available to consumers under the old Consumer Protection Act of 1986.

**Redress Mechanisms** One of the fundamental pillars of the Consumer Protection Act, 1986, was the establishment of consumer forums, often referred to as consumer dispute redressal commissions. These forums were designed to provide consumers with accessible avenues for resolving disputes, seeking compensation, and ensuring timely justice. These forums operated at the district, state, and national levels, offering consumers a hierarchy of options based on the value of their claims.

**Compensation and Damages** The Act empowered consumers to seek compensation for any loss or injury suffered due to defective goods or services. Consumers could claim damages for physical injuries, mental agony, or financial losses resulting from a product or service that did not meet the expected standards. The Act's provisions were instrumental in allowing consumers to pursue financial relief for any harm caused.

**Right to Information** Consumers were granted the right to obtain information about the quality, quantity, potency, purity, standard, and price of goods or services. This right to information was crucial in ensuring transparency in transactions and empowering consumers to make informed choices.

**4. Protection Against Unfair Trade Practices** The Consumer Protection Act, 1986, specifically addressed unfair trade practices. Consumers were protected from practices such as deceptive advertising, false representations, and misleading statements by businesses.

The act provided a legal basis for consumers to challenge these practices and seek remedies. Product Liability The old act introduced the concept of product liability, which made manufacturers, sellers, and service providers liable for any harm caused by defective products or services. This was a significant development as it shifted the burden of responsibility onto businesses to ensure the safety and quality of their offerings. Class Action Suits The old Consumer Protection Act allowed for class action suits, wherein a group of consumers with similar grievances could collectively file a complaint against a business or service provider. This mechanism was instrumental in strengthening the collective power of consumers. Timely Resolution One of the key features of the old act was the emphasis on the expeditious resolution of consumer disputes. It set strict timelines for resolving cases, ensuring that consumers did not have to endure prolonged legal battles. The legal remedies under the old Consumer Protection Act, 1986, were instrumental in providing consumers in India with a comprehensive framework for seeking justice and compensation in case of disputes or grievances. However, as the marketplace continued to evolve, the need for further improvements and adaptations became evident. This paved the way for the introduction of the New Consumer Protection Act in 2019, which sought to address some of the shortcomings of the old act and enhance the legal remedies available to consumers in the modern age.

### **Historical Antecedents of Consumer Protection in India**

Consumer protection in India has a rich historical context that can be traced back to various socio-economic and legal developments over the years. While the formal legal framework for consumer protection, as seen in acts like the Consumer Protection Act of 1986 and the subsequent the Consumer Protection Act of 2019, may be relatively recent, there were historical antecedents that laid the foundation for these modern regulations.

Historically, Indian society has exhibited a strong tradition of protecting consumers through informal mechanisms and customary practices. Markets often had established norms of fairness and quality that were adhered to by traders. Local customs and community oversight played a significant role in ensuring that consumers received fair treatment and quality products.

Even before the formalization of consumer protection laws, the Indian judiciary was instrumental in safeguarding consumer interests. Through various judicial pronouncements, courts began recognizing the concept of product liability, negligence, and compensation for consumers harmed by defective

products or services. These early judicial decisions set precedents for future consumer protection legislation.

*The E. C. Act of 1955*<sup>3</sup> was one of the earliest legislations in India to regulate the production, supply, and distribution of essential commodities. While this act primarily aimed at ensuring the availability and price control of essential goods, it indirectly contributed to consumer protection by preventing hoarding and black-marketing, which were detrimental to consumers. *The Monopolies and Restrictive Trade Practices Act (MRTP)*, enacted in 1969<sup>4</sup>, was an essential piece of legislation that aimed to control monopolistic and restrictive trade practices in India. This act was a precursor to the consumer protection framework and sought to promote fair competition in the marketplace, which indirectly benefited consumers. Throughout the 20<sup>th</sup> century, India witnessed significant industrialization and economic growth, leading to an increase in consumer transactions. However, along with economic development came challenges such as the proliferation of substandard and unsafe products, misleading advertising, and unfair trade practices. These challenges underscored the need for a comprehensive legal framework for consumer protection. The historical antecedents of consumer protection in India demonstrate the gradual development of a legal framework that prioritizes consumer interests, fairness in trade practices, and the safety and quality of products and services. While many of these early influences were indirect or lacked specificity, they set the stage for the more robust and dedicated consumer protection laws that followed, beginning with the Consumer Protection Act of 1986 and the subsequent 2019 Act. These modern acts aimed to provide consumers with specific rights, mechanisms for redress, and safeguards against various forms of exploitation and harm in the marketplace.

Consumer advocacy movements in India played a pivotal role in raising awareness about consumer rights and advocating for stronger legal protections. These movements marked a turning point in the history of consumer protection in the country. The emergence of consumer advocacy in India can be attributed to several key factors and historical developments. The 20<sup>th</sup> century saw the rise of consumer advocacy movements worldwide, particularly in countries like the United States and Europe. These global movements influenced Indian activists and consumer advocates, who recognized the need for similar efforts in India. Consumer advocacy organizations and leaders from other nations provided models for how consumers could unite to demand their rights and protection. The Role of Pioneering

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<sup>3</sup> The Essential Commodities Act, 1955

<sup>4</sup> The Monopolies and Restrictive Trade Practices Act, 1969 Repealed by the competition act,2002

Activists Prominent consumer activists and advocates like **H.D. Shourie** and **Pushpa Girimaji** emerged in India during the late 20<sup>th</sup> century. These individuals played a critical role in raising awareness about consumer rights and promoting the idea of organized consumer advocacy. Their efforts laid the foundation for consumer protection movements in the country. In response to the growing need for organized consumer advocacy, several consumer protection organizations were formed in India. These organizations aimed to educate consumers about their rights, provide resources for addressing grievances, and actively engage with the government and businesses to push for stronger consumer protection laws. Organizations like **Consumer Education and Research Centre<sup>5</sup> (CERC)** and **Consumer Guidance Society of India<sup>6</sup> (CGSI)** are notable examples. Consumer advocacy movements in India were instrumental in advocating for legislative changes. They highlighted the deficiencies in existing laws and actively campaigned for the introduction of new legislation that would provide comprehensive protections for consumers. These efforts led to the eventual enactment of the Consumer Protection Act of 1986. Consumer advocates in India placed a strong emphasis on consumer education and awareness. They organized seminars, workshops, and public awareness campaigns to inform the general public about their rights and responsibilities as consumers. This educational aspect of advocacy was crucial in empowering consumers to make informed choices and demand accountability. Consumer advocacy organizations and activists in India often resorted to litigation and test cases to challenge unfair trade practices and to set legal precedents. These legal battles helped clarify legal standards and further protect consumer interests. The emergence of consumer advocacy in India reflected a growing awareness of consumer rights and the need for organized efforts to protect those rights. Consumer advocates and organizations were instrumental in shaping the consumer protection landscape in the country, influencing the introduction of the Consumer Protection Act of 1986 and subsequent legislation. Their efforts not only raised awareness but also empowered consumers to take an active role in demanding fairness, safety, and quality in the marketplace. Consumer advocacy continues to play a crucial role in India's ongoing efforts to protect and promote consumer interests.

**The Consumer Protection Act of 1986** stands as a landmark piece of legislation in India's legal framework, dedicated to safeguarding the interests of consumers. **Enacted on December 24, 1986**, this act marked a significant shift in the approach to consumer protection in the country. It introduced a

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<sup>5</sup> <https://cercindia.org/dt/04/12/23,02.23pm>

<sup>6</sup> <http://www.cgsiindia.org/dt/04/12/23,02.25pm>

comprehensive framework to address consumer grievances, ensure fair treatment, and provide remedies for various issues arising from the purchase of goods and services. The Consumer Protection Act, 1986, was introduced with the primary objective of protecting consumers from unfair trade practices, ensuring product safety and quality, and promoting fair competition in the marketplace. It aimed to empower consumers by providing them with specific rights and legal mechanisms to address grievances. One of the pivotal features of the 1986 act was the establishment of consumer forums, which served as consumer dispute redressal commissions. These forums were designed to provide consumers with accessible channels for resolving disputes, seeking compensation, and obtaining timely justice. The act outlined a hierarchy of forums at the district, state, and national levels, allowing consumers to choose the appropriate level based on the value of their claims. The act empowered consumers to seek compensation for any loss or injury suffered due to defective goods or services. It included provisions for claiming damages for physical injuries, mental agony, or financial losses resulting from products or services that did not meet the expected standards. This was instrumental in allowing consumers to pursue financial relief for any harm caused. The act provided consumers with the right to obtain information about the quality, quantity, potency, purity, standard, and price of goods or services. This *Right to Information under the act*<sup>7</sup> was crucial in ensuring transparency in transactions and empowering consumers to make informed choices. Specific provisions within the Consumer Protection Act, 1986, addressed unfair trade practices. Consumers were protected from practices such as deceptive advertising, false representations, and misleading statements by businesses. The Act provided a legal basis for consumers to challenge these practices and seek remedies. This legislation introduced the concept of product liability, making manufacturers, sellers, and service providers liable for any harm caused by defective products or services. It shifted the burden of responsibility onto businesses to ensure the safety and quality of their offerings. The act allowed for class action suits, where a group of consumers with similar grievances could collectively file a complaint against a business or service provider. This mechanism strengthened the collective power of consumers in pursuing their rights. One of the key features of the Consumer Protection Act, 1986, was the emphasis on the expeditious resolution of consumer disputes. It set strict timelines for resolving cases, ensuring that consumers did not have to endure prolonged legal battles. The 1986 Consumer Protection Act was instrumental in providing consumers in India with a robust and comprehensive framework for seeking justice and compensation in case of disputes or grievances. It marked a significant step in recognizing and addressing the needs of

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<sup>7</sup> The Right to Information Act, 2005

consumers in an increasingly complex marketplace. This legislation laid the foundation for further improvements and adaptations to consumer protection laws in the country, culminating in the enactment of the New Consumer Protection Act of 2019, which aimed to address some of the shortcomings of the 1986 act and enhance the legal remedies available to consumers in the modern age.

**The Consumer Protection Act of 2019** represents a significant overhaul of India's consumer protection framework, responding to the dynamic and evolving nature of the marketplace. **Enacted on August 9, 2019**, this act aimed to modernize and enhance consumer protection in India, adapting to the challenges posed by e-commerce, emerging technologies, and the changing expectations of consumers. The 2019 Consumer Protection Act was introduced with the primary objective of enhancing consumer rights and protection. It recognized the need for a more robust legal framework that addresses contemporary consumer issues and challenges. The act sought to empower consumers further by providing them with updated rights and legal mechanisms to address grievances.

The 2019 act redefined and expanded the rights of consumers. It acknowledged new-age challenges by incorporating the right to timely delivery of goods and services, the right to be informed about the quality and standards of products and services, and the right to file complaints electronically, among others. One of the major innovations introduced by the act was the establishment of the **Central Consumer Protection Authority<sup>8</sup> (CCPA)**. This central regulatory authority has a mandate to promote, protect, and enforce the rights of consumers. The CCPA is empowered to investigate and take action against misleading advertisements, unfair trade practices, and other violations of consumer rights. Recognizing the significant growth of e-commerce in India, the 2019 act includes provisions that specifically address issues related to online shopping. It introduces stricter regulations for e-commerce platforms, ensuring transparency, accountability, and the protection of consumer data. It also addresses issues related to counterfeit products and fake reviews. The act promotes mediation as a means of resolving consumer disputes, aiming to expedite the resolution process while reducing the burden on consumer forums and courts. It encourages parties to opt for mediation before proceeding with a formal legal process.

Building upon the provisions of the 1986 act, the 2019 act strengthens the concept of product liability. Manufacturers, sellers, and service providers are held more accountable for defective products or

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<sup>8</sup> <https://pib.gov.in/PressReleasePage.aspx?PRID=1642422> dt02/12/23 ,02.30pm



services, and consumers have broader rights to seek compensation for any harm caused. To deter unfair trade practices and violations of consumer rights, the 2019 act imposes higher penalties and punishments on businesses found guilty of such practices. This serves as a deterrent against unethical behaviour and provides a stronger incentive for businesses to comply with consumer protection laws. Simplified and Speedy Redressal act simplifies the adjudication process, making it more accessible and consumer-friendly. It further emphasizes timely resolution, ensuring that consumers do not have to endure lengthy legal battles.

The 2019 Consumer Protection Act reflects India's commitment to keeping pace with the evolving marketplace and addressing contemporary consumer challenges. It seeks to enhance consumer protection, empower consumers, and promote fair and transparent trade practices. By introducing updated rights, regulatory mechanisms, and stricter regulations for e-commerce, the act aims to ensure that consumers in India can confidently participate in the digital age's dynamic and complex marketplace. This legislation is a significant step towards achieving these objectives while maintaining a fair balance between consumer rights and business interests.

Consumer protection is not just a national concern; it has taken on a global dimension in an increasingly interconnected world. India, as a participant in the international community, has adopted various global practices and standards in the realm of consumer protection. Understanding the global perspective is crucial for evaluating how India's consumer protection laws align with international norms and addressing global challenges. India has been an active participant in various international agreements and treaties related to consumer protection. One such key document is the *United Nations Guidelines for Consumer Protection*<sup>9</sup>. These guidelines set out principles and recommendations for governments and businesses to ensure the protection of consumers' economic interests. India's alignment with these international guidelines reflects a commitment to harmonizing its consumer protection framework with global standards. In a globalized world, consumers often engage in cross-border transactions, whether through e-commerce<sup>10</sup>, tourism, or import and export activities. India's consumer protection laws have recognized the need to address issues related to trans border consumer protection. The act acknowledges

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9 <https://unctad.org/topic/competition-and-consumer-protection/un-guidelines-for-consumer-protection#:~:text=The%20United%20Nations%20Guidelines%20for,formulating%20and%20enforcing%20domestic%20 dt02/12/23,02.45pm>

10 <https://en.m.wikipedia.org/wiki/E-commerce dt02/12/23 02.56pm>

the rights of Indian consumers when making international purchases and allows for international cooperation to address consumer grievances across borders. E-commerce is a significant global force, and online consumer protection is a priority for consumers around the world. The 2019 Consumer Protection Act in India, with its focus on e-commerce and online consumer protection, reflects the recognition of these global trends. The act's provisions address issues such as the transparency of online transactions, data protection, and the regulation of e-commerce platforms in line with international practices. India actively participates in forums and organizations dedicated to consumer protection, where countries share best practices and experiences. This global exchange of knowledge and expertise enables India to adapt and refine its consumer protection laws, drawing on the successes and lessons learned from other countries. Another aspect of global consumer protection efforts is the protection of vulnerable consumer groups. India has adopted international practices in this regard, particularly with a focus on safeguarding the interests of children, the elderly, and low-income consumers. The act recognizes the need to provide additional protections for these groups, aligning with global efforts to ensure fairness and equity in the marketplace. In a world where businesses often operate across borders, effective enforcement of consumer protection laws requires international cooperation. India has taken steps to enhance cooperation with other countries in cases involving international businesses. This approach facilitates the exchange of information and the enforcement of consumer protection laws on a global scale. Indian consumer protection organizations and advocates are increasingly engaged in global advocacy and policy development efforts. They participate in international discussions on consumer protection and contribute to shaping global policy. This ensures that the unique challenges and needs of Indian consumers are recognized and addressed in the international arena. Understanding the global perspective on consumer protection is essential for India as it strives to balance the interests of consumers and businesses within a global marketplace. By aligning its consumer protection laws with international standards and participating in global initiatives, India aims to ensure that its consumers are not only protected within the country but also when engaging in global transactions and interactions. This international perspective contributes to a more comprehensive and effective approach to consumer protection in India.

### **Comparative Analysis of the Old (1986) and New (2019) Consumer Protection Acts in India.**

The Consumer Protection Acts of 1986 and 2019 represent two distinct eras in India's legal framework for consumer protection. A comparative analysis of these two acts sheds light on the evolution of

consumer rights and the changing dynamics of the marketplace. Here, we examine the key differences and improvements in the new act over the old one:

### **1. Redefined Consumer Rights**

*Old Act*<sup>11</sup> (1986): The old act outlined the fundamental rights of consumers, focusing on protection from unfair trade practices and product liability.

*New Act*<sup>12</sup> (2019): The 2019 act redefines and expands consumer rights to address contemporary challenges. It introduces new rights, such as the right to timely delivery, right to information, and electronic complaint filing, reflecting the changing dynamics of consumer expectations in a digital age.

### **2. Establishment of Central Consumer Protection Authority (CCPA)**

*Old Act* (1986): The old act primarily relied on consumer forums at the district, state, and national levels for dispute resolution and enforcement of consumer rights.

*New Act* (2019): The 2019 act introduces the CCPA, a central regulatory authority with a mandate to investigate and take action against misleading advertisements, unfair trade practices, and other violations of consumer rights. This empowers consumers with a stronger enforcement arm.

### **3. Online Consumer Protection**

*Old Act* (1986): The old act did not specifically address issues related to online consumer protection, which was a growing concern in the digital age.

*New Act* (2019): Recognizing the rapid growth of e-commerce and online transactions, the 2019 act imposes stricter regulations on e-commerce platforms and introduces provisions to protect online consumers. It addresses issues such as counterfeit products, fake reviews, and data privacy, providing consumers with legal remedies in the digital marketplace.

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11 The Consumer Protection Act, 1986

12 The Consumer Protection Act, 2019

#### **4. *Mediation as a Dispute Resolution Mechanism***

*Old Act (1986)*: The old act primarily relied on consumer forums and courts for dispute resolution, with no specific emphasis on mediation.

*New Act (2019)*: The 2019 act promotes mediation as a means of resolving consumer disputes. This aims to expedite the resolution process, reduce the burden on consumer forums and courts, and provide consumers with a faster and more accessible way to seek remedies.

#### **5. *Strengthened Product Liability***

*Old Act*<sup>13</sup> (1986): The old act introduced the concept of product liability, making manufacturers, sellers, and service providers liable for defective products or services.

*New Act*<sup>14</sup> (2019): The 2019 act builds upon this concept and strengthens product liability. Businesses are held more accountable for defective products or services, and consumers have broader rights to seek compensation for any harm caused. Businesses are under a stricter duty to ensure the safety and quality of their offerings.

#### **6. *Enhanced Penalties and Punishments***

*Old Act (1986)*: The old act had penalties for unfair trade practices and violations of consumer rights, but they were relatively less stringent.

*New Act (2019)*: The 2019 act imposes higher penalties and punishments on businesses found guilty of unfair trade practices, misleading advertisements, or violations of consumer rights. These stringent penalties serve as a deterrent against unethical behaviour.

#### **7. *Simplified and Speedy Redressal***

*Old Act (1986)*: The old act emphasized timely resolution of consumer disputes but did not specifically simplify the adjudication process.

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<sup>13</sup>The Consumer Protection Act, 1986

<sup>14</sup> The Consumer Protection Act, 2019



*New Act (2019)*: The new act simplifies the adjudication process, making it more consumer-friendly. It places a strong emphasis on timely resolution, ensuring that consumers do not have to endure lengthy legal battles.

This comparative analysis highlights the substantial improvements and adaptations in the 2019 Consumer Protection Act over the 1986 act. The new act takes into account the challenges of the digital age, expands consumer rights, strengthens enforcement mechanisms, and ensures that consumers have more robust legal remedies. It represents a significant step towards enhancing consumer protection in India while maintaining a balance between consumer rights and business interests in the modern marketplace.

Consumer Protection in India has undergone a transformative journey from the enactment of the Consumer Protection Act in 1986 to the introduction of the 2019 Consumer Protection Act. The old act laid the foundation for safeguarding consumer rights and offering legal remedies for grievances. It focused on addressing unfair trade practices, promoting transparency, and ensuring product liability. The 2019 Consumer Protection Act represents a significant advancement, recognizing the changing dynamics of the modern marketplace. It introduces a broader set of consumer rights, strengthened enforcement mechanisms, and specific provisions for online consumer protection. The establishment of the Central Consumer Protection Authority (CCPA) and the emphasis on mediation for dispute resolution demonstrate India's commitment to more effective and accessible consumer protection. The global perspective has played a crucial role in shaping India's approach to consumer protection, with the country participating in international agreements, sharing best practices, and addressing trans border consumer protection. In conclusion, India's evolving consumer protection framework reflects its dedication to aligning with international norms, addressing contemporary challenges, and empowering consumers to assert their rights and interests. These legislative efforts demonstrate a commitment to maintaining fairness, safety, and quality in the marketplace, ensuring that consumers are well-protected in an increasingly complex and interconnected world. The journey of consumer protection in India continues, with a focus on adapting to emerging technologies, e-commerce, and the changing expectations of consumers in the digital age.

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