



## Sustainable consumerism in India: Reassessing the consumer and corporate responsibility

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### Abstract

There has been increase in the global production and consumption in last few decades. This has significantly influenced the consumer choices and their standard of living. On the other hand this has caused serious environmental concerns including depletion of natural resources and excessive waste generation. To tackle this growing concern, the concept of sustainable consumption was introduced at the international level and the same was incorporated at the municipal level also. The concept of sustainable consumption is not limited to the purchasing pattern of the consumer. Rather it attempts to hold production and distribution patterns along with the disposal mechanism of the product by adhering to responsible business practices. Here, the Consumer Protection Act 2019 (CPA) plays a vital regulatory role in ensuring fair market practices and safeguarding consumer interest. The CPA has introduced product liability and extended product liability provisions for safeguarding consumer interests. However, it gives only limited attention to environmental implications associated with it. This paper critically examines the potential of product liability laws in promoting sustainable consumption. It further explores the existing Indian legal framework on greenwashing, voluntary environmental standards as a challenge on access to reliable information and thereby handicaps the right to informed purchase decision making by the consumers. The author concludes by recommending stronger integration of consumer laws, environmental protection laws and corporate responsibility for promoting informed consumer choices and sustainable consumption.

**Keywords:** Product liability, sustainable consumption, green consumerism, informed consumer choices

### Introduction

Over the past few decades, there has been a substantial expansion in production, consumption and technological innovation at a global level. This had marked a positive impact on consumer choices and their living standards. All positives have its price. In this case, it has caused some serious environmental concerns. It includes resource depletion, pollution and excessive waste generation.<sup>[1]</sup> Consumption beyond essential needs has become the hallmark of the modern consumer market. Complex supply chains, aggressive marketing strategies and mass productions contributes significantly towards over consumption.

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The concept of sustainable development was formulated as a response to overcome these challenges. It was conceptualised as guiding principle in combating environmental concerns at the international level. The core aspect of sustainable development is understood to be social welfare<sup>[2]</sup>. This is because, the fundamental idea of sustainable development is to bring in a balance between the economic growth and the environmental protection. A very notable concept in addressing consumer driven

environmental degradation within the sustainable development framework is the sustainable consumption.

Sustainable consumption should not be seen solely from the consumer angle. It is equally the responsibility of the manufacturers or the service providers to encourage sustainable consumption by adhering to best business practices. This could possibly introduce an argument demanding protection of consumer interests against unfair business practices. Therefore, a consumer protection law must have a role in regulating market practices. Product safety, unfair trade practices and compensation for defective goods had been the area of major traditional concerns for the consumer protection laws<sup>[3]</sup>. The Consumer Protection Act 2019 (CPA) provided for a specific framework to deal with product liability. It fixes responsibility on the manufacturers, service providers and the sellers for the harm caused due to defective products. It can also be seen as a positive signal embarking marketplace accountability<sup>[4]</sup>. It is to be noted that the provisions relating to product liability does not *prima facie* deals with environmental consequences related with the products. It primarily deals with consumer injury and product safety. The aim of this paper is to explore the potential of the product liability laws in promoting sustainable consumption. The paper will also explore the drawbacks in the existing legal framework curbing informed decision making by the consumers in pursuance of sustainable consumption.

### Sustainability and the Consumer Protection

The concept of sustainability ventures for development without compromising the needs of the future generation<sup>[5]</sup>. The sustainability concept was the cornerstone of Brundtland Commission Report and it follows to be a cardinal international environmental policy. The

sustainability principle resonates over three dimensions, namely environmental, economic and social. Conservation of natural resources and minimisation of ecological damage are the twin focal points of the environmental dimension. The long-term growth and the efficient use of environmental resources is the concern of the economic dimension. The social dimension caters the human welfare, equity and health.

One of the major factors influencing sustainability is the production patterns, which is largely driven by consumer behaviour. Consumer demands forces industries to expand their productions to meet the consumer needs. By this theory, it can be stated that the manufacturers would be bound to adopt sustainable production practices if the consumers prioritise environmentally sustainable products<sup>[6]</sup>. From this tendency of consumers choosing environmentally sustainable products, the concept of green consumerism got its origin. It refers to the purchasing mentality of the consumer, where he chooses goods and services having minimal adverse impact on the environment<sup>[7]</sup>. It can have various strategies. Buying energy efficient products, recyclable goods, goods made using sustainable methods are few ways of exploring green buying behaviour. At the same time consumers faces many challenges in strictly adhering to green consumerism. Identification of genuine sustainable products is the major hurdle in this process. Misleading environmental claims and lack of transparency makes the process even more challenging.

### **Product Liability Law in India**

Inclusion of product liability laws in India was not an overnight achievement. It has undergone gradual evolution over the time. Much of the claims were dealt under tortious liability of negligence. The CPA 1986, did not had explicit provision regarding product liability *per se*. It provided for suit against manufacturers and sellers for defective goods and deficient services<sup>[8]</sup>. Later in 2019 CPA introduced explicit provision for product liability<sup>[9]</sup>. The CPA 2019 conceives product liability by way of holding the manufacturer, product seller or the service provider liable for any harm caused to the customers due to any defects. They are liable to compensate the affected consumers. The grounds for liability are not limited manufacturing or design defects and breach of warranties. Failure to provide adequate information, instructions or warnings will also come under product liability. Thus, the 2019 CPA has extended liability throughout the supply chain thereby significantly strengthening the consumer rights.

### **Product Liability as a Tool for Promoting Sustainability**

The product liability law can be effectively used for promoting sustainable production practices. This can help in holding companies accountable for adhering to production process that causes detrimental effect to the environment. The product liability of the manufacturer is limited only to the defects in the product and the harm caused due to it. One way to attract liability to the manufacturer is to prove that the product does not adhere to the environmental standards claimed by the manufacturer. This could be possible if the claim can be treated as an express warranty made to the eco-centric costumers. This could be a potential provision for making the manufacturers responsible for the environmental consequences made by their products in its entire life-

cycle<sup>[10]</sup>. The product life-cycle approach in the extended producer liability is advantageous for promoting sustainability in business. This is because, it comprehensively addresses the environmental issues at every stage of production, distribution, consumption and disposal. This compel the companies to introduce products and production design which are durable, recyclable and environmentally friendly.

It is to understood that sustainable business practice does not end with production and distribution alone. Correct usage and disposal of products is also equally important for ensuring sustainable consumption. Therefore, providing instructions and information on usage and disposal of product by the manufacturers or the sellers also plays a pivotal role promoting sustainability<sup>[11]</sup>. The requirement for providing adequate instructions regarding safe use and disposal of products necessarily includes the environmental risks associated with the product and the recycling guideline.

### **Limitations in the Existing Legal Framework**

One of the major drawbacks in the existing consumer protection legal regime is the absence of explicit provision regarding environmental concerns. The consumer protection law fails to address environmental hazards associated with a product or service, if does not cause harm to the consumers directly. Another drawback in the current law is the absence of strict oversight for environmental claims by the company. In response to this Central Consumer Protection Authority (CCPA) was established under the 2019 CPA. The purpose of CCPA is to promote, protect and enforce consumer rights. In 2024, CCPA introduced Guidelines for Prevention and Regulation of Greenwashing or False Environmental Claims (Greenwashing Guidelines). One of the serious flaws of the Greenwashing guideline is its *ex-post facto* nature. The guideline considers the authenticity of the environmental claims which is already in circulation among the public. There is no mechanism to sensor the claim prior to its publication. Investigation of certain claims might require scientific expertise making verification and enforcement challenging.

The biggest hurdle in this aspect is that the legal framework on sustainability is scattered over multiple statutes. This includes a mixture of environmental law, consumer protection law and corporate governance. The major statutes in this regard are Environment (Protection) Act, 1986, Consumer Protection Act, 2019, Companies Act, 2013 and to an extent the Competition Act, 2002. This makes enforcement a herculean task due multiple enforcement agencies and mechanisms.

It is very interesting to note that the adherence to sustainability standards in India remains voluntary. The ISO 14001:2015 remains as an internationally accepted standard for Environmental Management System (EMS). EMS provides framework for improving environmental performance and reduce waste. However, due to its lack of binding nature, it becomes optional for the organisation to comply with the standards or not. Same is the case with the compliance of National Guidelines on Responsible Business Conduct 2018 and Ecomark Rules of 2024. Finally, all these drawbacks collectively affect the right to informed decision making of the consumers. Informed decision making in its essence is the access to reliable information and making purchasing decision accordingly. The *ex-post*

*facto* screening of claims, voluntary nature of adhering to environmental standards and certification mostly based on certification without timely verification prohibits the consumer from the access to reliable information.

### **Recommendations**

Sustainable consumption is not a responsibility limited to the consumers. The business is also equally responsible to contribute towards sustainable consumption. The present product liability law is confined to the injuries sustained to the consumers due to defective product. It does not explicitly cover the environmental harm associated with the product unless it directly affects the consumer directly. It is to noted that the one which is harmful to the environment will be harmful to human beings soon or later. Hence, bringing such a distinction in the product liability regime is absurd. Thus, the product liability of the manufacturer should equally consider the environmental harm caused by the product during its life-cycle.

Access to reliable information on environmental claims is the basic right of every consumer. The present law is highly driven by voluntary disclosures and subscription to environmental standards such as ISO standard for EMS and the Ecomark scheme 2024. Eco- labelling is a proof for transparent and reliable environmental claims. Thus, the Ecomark scheme should be made mandatory for the products. The Ecomark Rule 2024 should process the request after strict scrutiny and verification of claims in a time bound manner.

### **Conclusion**

Innovative legal framework transcending the traditional consumer protection law is a need of the hour for combatting the challenges associated with environmental challenges and modern consumption patterns. Product liability till today is understood only as a mechanism for compensating consumers for the injuries caused by defective products. The product liability angle in promoting environmental sustainability remains largely unexplored. It is highly appreciable that the 2019 CPA has incorporated several provisions including product liability and extended product liability for strengthening consumer rights in India. However, the Act fails to adequately consider environmental aspects connected with environmental responsibility. Similarly, the inadequacy in the existing legal framework on greenwashing, misleading environmental claims and Ecomark scheme is a serious concern regarding informed decision making of the consumer. Therefore, an overall strengthening in laws governing consumer protection, environment protection and market practices should be made by incorporating sustainability principles. This can play a pivotal role for the achievement of sustainable development goals and long-term environmental protection.

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