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# SUSTAINABLE FASHION AND CONSUMER RIGHTS: REINTERPRETING PRODUCT DURABILITY UNDER THE CONSUMER PROTECTION ACT, 2019

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## ABSTRACT

Fast fashion has transformed consumer market places over the globe with its insatiable appetite for cheap, on-trend apparel. Although this has improved the alternatives and convenience for consumers, it has also had several detrimental impacts to the environment such as resource exploitation, textile waste and carbon emissions. There's a problem with fast fashion as they are deliberately built to last for a short period of time, compelling the human population to continually purchase and dispose of them. The current Consumer Law of India is inadequate to address the issues of product durability, consumer rights and environmental sustainability.

This study will explore the potential of reading the word 'quality' into the Consumer Protection Act 2019 to make durability an important element of consumer protection. This paper will focus on analysing the legal tools to fight against planned obsolescence in fashion. In the study, the Bureau of Indian Standards Act, 2016, Consumer Protection Act, 2019, and relevant environmental legislations are analysed. It also looks at legal changes, including consumer protection and the incorporation of sustainability and durability in the Australian, French and EU context.

Product longevity can be used as a measure of the product quality which can aid consumers, prevent unfair business practices and encourage environmentally friendly purchase. It also implies labelling of items and monitoring and verification of the durability of products and of the labelling of the eco-durability. It also calls for more regulation of sustainability statements in the textile industry. In this paper an attempt is made to join this ongoing debate on sustainable consumption and emergence of eco-durable rights in India

**Keywords:** Sustainable fashion, Consumer Protection Act, 2019, Eco-Consumer rights, Product Durability.

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## I. INTRODUCTION

The fast-fashion business model has revolutionized the fashion industry in the last 20 years. Fast fashion is the quick creation and promotion of cheap apparel that mimics current fashion and changes in customer taste.<sup>3</sup> With the evolution of internet marketing, e-commerce sites and worldwide supply chains, fashion enterprises may issue new collections faster, leading to an even faster pace of apparel consumption by customers.<sup>4</sup> This has created a situation that has resulted in consumer choice and access, as well as significant environmental and social issues.<sup>5</sup>

The impact of fast fashion on the environment has been widely debated all around the world. The textile sector is a huge consumer of water, natural resources, and polluter and emitter of Green House Gases (GHGs) and waste.<sup>6</sup> The worrying aspect is that the consumption of clothes products is not sustainable, customers buy the clothes products with limited use and after a few uses they are being discarded.<sup>7</sup> In fact, a significant amount of textile waste is disposed of in landfills, with long-term consequences for the environment that will not help reach the global sustainability goals.<sup>8</sup> This has caused some concern to policy makers, environmentalists and consumer rights organisations that the current legislation is working to ensure the environmental consequences of the modern consumer economy are curtailed.<sup>9</sup>

One thing which is usually overlooked in the fast fashion market is the production of things that are useful but for a short period. This is known as 'purposeful obsolescence' and it is a way of encouraging people to make repeat purchases, by reducing the durability or lifespan of products.<sup>10</sup> This means that consumers have to change their clothes more frequently, thus increasing their expenditure and the environmental impact.<sup>11</sup>

The Government of India has introduced the Consumer Protection Act, 2019 to safeguard the

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<sup>3</sup> Joy et al., *Fast Fashion, Sustainability, and the Ethical Appeal of Luxury Brands*, 16 *Fashion Theory* 273, 274–76 (2012).

<sup>4</sup> United Nations Environment Programme, *Sustainability and Circularity in the Textile Value Chain: Global Roadmap* 8–12 (2023).

<sup>5</sup> Ellen MacArthur Found., *A New Textiles Economy: Redesigning Fashion's Future* 17–24 (2017).

<sup>6</sup> Kirsi Niinimäki et al., *The Environmental Price of Fast Fashion*, 92 *Nature Rev. Earth & Env't* 189, 191–94 (2020).

<sup>7</sup> Kate Fletcher, *Slow Fashion: An Invitation for Systems Change*, 6 *Fashion Prac.* 259, 260–67 (2010).

<sup>8</sup> Organisation for Economic Co-operation and Development (OECD), *Global Material Resources Outlook to 2060* 135–37 (2019).

<sup>9</sup> U.N. Env't Programme, *Putting the Brakes on Fast Fashion* 4–8 (2018).

<sup>10</sup> Vance Packard, *The Waste Makers* 45–58 (1960).

<sup>11</sup> Tim Cooper, *Slower Consumption: Reflections on Product Life Spans and the Throwaway Society*, 15 *J. Indus. Ecology* 15, 18–22 (2005).

interests of the consumers and to ensure fair commerce in India.<sup>12</sup> The Act specifies some rights of the consumers and seeks to safeguard the consumers against poor service, defective products and unfair practices in trade. In *Lucknow Development Authority Vs. M.K. Gupta*, Supreme Court said that the act must be interpreted in a liberal spirit for the benefit of consumer and to effectively prevent activities that exploit consumers.<sup>13</sup> In *Indian Medical Association v. V.P. Shantha*, the Supreme Court observed that the Consumer Protection Act is welfare oriented and the rights of consumer should be construed in a broad manner and in a purposive way.<sup>14</sup> It is an interpretative approach that can accommodate the contemporary needs of sustainability and durability and can be added in consumer protection law.<sup>15</sup>

With regard to the relevance of the changing relationship between consumer protection and environmental sustainability, the concept of quality in the Consumer Protection Act, 2019, needs to be revisited. It can be noted that the definition of quality is overlooking the economic and environmental issues of short-lived products. A policy goal regarding the stability of consumption is emerging, which helps to reinforce the importance of durability as one of the quality attributes.<sup>16</sup>

Environment protection has been one of the constitutional values from the inception and the Supreme Court of India has, in cases like *M.C Mehta v. Union of India*<sup>17</sup> as well as *Vellore Citizens Welfare Forum v. Union of India*<sup>18</sup>, acknowledged the importance of sustainable development as an integral part of the environmental jurisprudence in India and underscored the need to mainstream environmental considerations into the regulatory and policy-making process. The same can be done for consumer protection law in order to solve environmental consequences of non-sustainable consumption patterns and to guarantee the consumer's welfare.<sup>19</sup>

With this backdrop, this paper is an analysis of whether product longevity is to be seen as a quality aspect under the Consumer Protection Act, 2019. It addresses the sustainable fashion

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<sup>12</sup> Consumer Protection Act, No. 35 of 2019, pmbl. (India).

<sup>13</sup> *Lucknow Development Authority v. M.K. Gupta*, (1994) 1 SCC 243.

<sup>14</sup> *Indian Medical Association v. V.P. Shantha*, (1995) 6 SCC 651.

<sup>15</sup> *Spring Meadows Hospital v. Harjol Ahluwalia*, (1998) 4 SCC 39.

<sup>16</sup> Lucia A. Reisch & John Thøgersen eds., *Handbook of Research on Sustainable Consumption* 3–11 (Edward Elgar Publ'g 2015).

<sup>17</sup> (1987) 1 SCC 395.

<sup>18</sup> (1996) 5 SCC 647

<sup>19</sup> Indian Constitution. Articles 48A, 51A(g); *Indian Council for Enviro-Legal Action v. Union of India*, (1996) 3 S.C.C. 212

and the rights of consumers and the environment. It offers an analysis of the legal frameworks of consumer protection and the environment from a doctrinal viewpoint, analysing the laws in effect in the different parts of the world.<sup>20</sup> The paper also claims that a definition of durability as a criterion of quality will enhance consumer rights, diminish planned obsolescence and contribute to the creation of a more sustainable and ecologically responsible consumer market.<sup>21</sup>

## **II. Fast Fashion and the Environmental Cost of Consumerism**

### **A. The Advent of Fast Fashion**

Fast fashion as a concept has revolutionized the global apparel market, it is characterized by the fast production, low production cost and fast consumption. Customers have become more compelled to buy frequently in order to keep up with the latest trends. This is a business practice that has made fashion more democratic, allowing people to wear more fashionable clothes that are more accessible to the wider part of society. But the seeming price of fast fashion usually covers huge environmental costs of manufacturing, transport, usage and disposal.<sup>22</sup>

The textile-making process, especially cotton and synthetic fibre production use vast quantities of raw materials, water and energy. Water bodies are contaminated and soil is degraded due to large quantities of chemical dyes, finishing chemicals and industrial treatment processes. Moreover, the rise in the usage of synthetic fibres has raised worries about the microplastic pollution and long-term ecological impacts.<sup>23</sup>

### **B. Fast Fashion and its Environmental Impact**

Fast fashion is about promoting short-term consumption. Fashions are frequently made to be short-lived and then replaced with new collections. This incentivizes people to throw away apparel well before it is at the end of its useful life. This has led to an unparalleled amount of textile waste around the world. Large volumes of wasted clothes are either transferred to landfills or burnt, thus adding to greenhouse gas emissions, thereby increasing the

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<sup>20</sup> Peter Mahmud Marzuki, *Legal Research* 55–63 (Kencana 2016).

<sup>21</sup> Vance Packard, *The Waste Makers* 45–58 (David McKay Co. 1960).

<sup>22</sup> Joy et al., *supra* note 3, at 278-280.

<sup>23</sup> Niinimäki et al., *supra* note 6, at 193-195.

environmental responsibilities.<sup>24</sup>

Such consuming behaviours are also the cause of environmental damage apart from waste generation. The consumption of natural resources, energy and carbon heavy manufacturing processes result in ecological degradation. Moreover, the transportation of fashion products along supply chains across the globe also adds significantly to the carbon footprint. In an era where the environment is increasingly becoming a concern, there is a question whether a system based on the constant use and disposal of products can be considered sustainable.<sup>25</sup>

### **C. Planned Obsolescence and Consumer Harm**

One aspect of the fast-fashion concept, known as intentional obsolescence, is particularly troublesome. When it comes to planned obsolescence, the fashion industry is rapidly catching up to the consumer electronics industry. They often use products that have lesser quality materials and production methods, to ensure the product will have a short life so that the customer will purchase it again.

Planned obsolescence puts the environment at risk, but not just that. People are expecting that their clothes will last, they will serve a purpose and be reasonably priced for that purpose. This is a kind of behaviour that is investigating the efficiency of the consumer protection legislations and questioning the standard attitude towards product quality.<sup>26</sup>

### **D. Sustainable Development and Judicial Response.**

The Indian jurisprudence of environment always envisaged the same balance as between development of economy and protection of environment. In the industrial pollution cases, the Supreme Court noted the responsibility of the enterprises that the use of the economic activity should not cause harm to the environment. The aims were to target polluting industries and not necessarily the fashion sector. Ideas can be utilized in textile and garment sector which has major environmental impact.<sup>27</sup>

*Vellore Citizens Welfare Forum v. Union of India* is a case precedent setting case on the

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<sup>24</sup> Ellen Macarthur Foundation, *supra* note 5, at 18-26.

<sup>25</sup> United Nations Environment Programme, *supra* note 9, at 4-10.

<sup>26</sup> Cooper, *supra* note 11, at 20-24.

<sup>27</sup> *M.C. Mehta v. Union of India*, *supra* note 17; *Indian Council for Enviro-Legal Action v. Union of India*, *supra* note 19.

ideology of sustainable development in India. In this judgement, Supreme Court has especially upheld the ideas of precautionary principle and polluter pays principle as a part of Indian Environmental Law. The Court pointed out that the companies must pay the environmental price of what they are doing, and take measures to ensure that no environment is damaged. The points are especially pertinent to the fast fashion society, which does not take into account the environmental price tag of the products it purchases.<sup>28</sup>

The Judiciary is also more interested in the ethics and sustainability of business. The cause and concept of ethics and ethical procurement and sustainable manufacturing are now becoming popular with the case of *PETA (People for Ethical Treatment of Animals) India vs Union of India*<sup>29</sup>. Although the lawsuit doesn't directly question the durability of consumer goods, it does show the growing need to balance commercial interests with ethical and ecological ones.

Quick fashion has strong relationship with the environment and consumer rights. The negative impacts of fast fashion are environmental issues as well. Consumer law must align with market processes which promote unsustainable consumption. Environmental law tries to regulate the detrimental industrial practices. Therefore, there is a requirement that the product should be durable if it is to be good. Durability has two aspects, for the user and for the environment.<sup>30</sup>

### **III. Consumer Protection: The idea of Quality Under the Consumer Protection Act, 2019**

The Consumer Protection Act 2019 was enacted to protect the consumers against the supply of defective goods, deficiency of services and unfair trade practices. The Act, which replaced the Consumer Protection Act, 1986, recognises the dynamic nature of the current consumer markets and tries to provide robust protection to consumers in both physical and virtual markets. The Act contains several rights that would be given to the consumers which include the right to be informed, right to choose, right to seek redressal, and the right to be protected from any unfair trade practice committed.<sup>31</sup>

From time to time the Supreme Court has reiterated the welfare aspect of the consumer protection laws. In the matter of *Lucknow Development Authority v. M.K. Gupta*<sup>32</sup>, the Court

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<sup>28</sup> Vellore Citizens Welfare Forum v. Union of India, supra note 18.

<sup>29</sup> (2023) SCC Online Del 4867 (or W.P.(C) 12660/2018)

<sup>30</sup> Indian Constitution. Arts. 48A, 51A(g).

<sup>31</sup> Consumer Protection Act, 2019, S. 2(9), No. 35, Acts of Parliament, 2019 (India).

<sup>32</sup> Lucknow Development Authority v. M.K. Gupta, supra note 13.

said that the consumer protection legislations are for the welfare of the consumers and they have to be read liberally in favour of the consumers in order to serve the remedial objects.

In *Indian Medical Association v. V.P. Shantha*<sup>33</sup>, Supreme Court, again gave a broad reading to the definition of consumer rights and emphasized that the concept of consumer protection is in the service of consumer welfare. The consequences of these decisions are significant as they continue to apply a "purposive" test for consumer protection. Such approach is especially applicable in present markets where issues related to sustainability, environmental responsibility and longevity of products progressively impact customer choice making.

### **A. Understanding the terms “Quality” and “Defect” under the Act**

The Consumer Protection Act, 2019 has one of the most significant concepts in the form of “defect” in goods. Sec. 2(10) of the Act specifies that any fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard which the trader is required to maintain under any law for the time being in force or under any contract, express or implied, or as is claimed by the trader in any manner whatsoever, in relation to any goods or product shall be deemed to be a defect.<sup>34</sup> The Act recognises quality as an important element but does not give a comprehensive definition of quality. Usefulness, attractiveness and instant performance have always been the basis for defining quality. For instance, when it comes to fashion products, a piece of clothing could be deemed excellent quality if it looks fine and serves the purpose for which it was bought. That may not be sufficient, however, in today's consumer marketplace, in which people don't just desire a one-off solution, they seek something that will last.<sup>35</sup>

Lacking a specific statutory definition means there is room for interpretation by the judicial and regulatory communities. Consumer law has always developed in response to changes in the market and new types of consumer harm. Therefore, the term 'Quality' should be interpreted not just from the point of view of functionality but also from the perspectives of aspects that contribute to its value and usefulness.

### **B. Product Durability and Consumer Expectations**

Durability is the ability for a product to be used and work for a suitable length of time.

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<sup>33</sup> *Indian Medical Association v. V.P. Shantha*, supra note 14.

<sup>34</sup> Consumer Protection Act, 2019, S 2(10), No. 35, Acts of Parliament, 2019 (India).

<sup>35</sup> *Spring Meadows Hospital v. Harjol Ahluwalia*, supra note 15.

Durability is a key factor in fashion, clothes are typically not purchased for one-time wear. When purchasing a dress, a customer would expect it to last for a reasonable period of time, given the dress price and type. But typically, fast fashion models are more focused on low production costs and not product longevity. The fast product cycles, low manufacturing standards and low-quality material are some of the reasons for shorter life span of garments. It does not necessarily mean that the product is actually at fault, but it could imply that the product does not last for a reasonable amount of time or value for money.<sup>36</sup>

The implications of the loss of durability are huge. They will need to buy the products more frequently, and consumers will have to keep spending money on the products that may cost more than higher quality durable products. This behaviour can impact not only the well-being of the end users but also on the market incentives, inducing the use of the product in the short term and not the long-term value creation.<sup>37</sup>

### **C. Sustainability and the Ever-Broader Definition of Quality.**

The conceptualization of quality needs to be understood more broadly, in the light of the growing importance of sustainable consumption in consumer protection law. Traditionally the quality of a product has been measured in terms of its performance and utility. Today's consumers are beginning to consider durability and the environmental impact and production processes when considering a product. Hence, quality is not just performance but it's also the characteristics that promote continued value and sustainability. Such a broad view on quality is in line with the constitutional values and public policy objectives to support environmental protection and sustainable development. In India the interpretation of statute provisions and constitution has been done in a purposive and liberal manner for the larger public interest by the courts, particularly the Supreme Court. Consumer protection law can also be understood as recognizing durability and sustainability as crucial aspects of product quality, thereby promoting the welfare of consumers and the environment.<sup>38</sup>

Consumer protection law must adapt to take account of social and environmental issues and not be restricted to a narrow definition of product quality. Considering durability as an integral component of quality has multiple advantages. Firstly, it would improve protection for

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<sup>36</sup> Cooper, *supra* note 11, at 20-24.

<sup>37</sup> Packard, *supra* note 10, at 52-58.

<sup>38</sup> Indian Constitution, Article 48A and 51A(g)

consumers, because products would meet consumers' realistic expectations of their lifespan and value for money, thus increasing consumer confidence in the market. Secondly, this would stop the intentional obsolescence of products; manufacturers would have an incentive to make high quality, long-lasting products rather than to promote products for frequent replacement and over consumption. It would also help foster customer loyalty and trust in companies employing responsible production. Finally, recognising durability as a quality attribute would help promote environmental sustainability by reducing the amount of textile waste produced, conserving natural resources and promoting responsible consumption.<sup>39</sup>

In this respect, the Consumer Protection Act, 2019, can be interpreted in a purposeful manner and product durability can be covered under the umbrella of product quality. This reading would not only increase consumer well-being and enhance market justice, but it would also contribute to the shifts necessary for sustainable development by establishing a more environmentally friendly and consumer-friendly market.<sup>40</sup>

#### **IV. International Approaches to the Regulation of Product Durability and Relevance for India.**

##### **A. The EU and Sustainable Consumer Protection**

The European Union (EU) is now at the forefront of incorporating sustainability issues into consumer protection and product regulation policies. Due to the ecological implications of short product life cycles, the European Union has made a push towards product durability, reparability and resource efficiency in various policies. The European Green Deal and the Circular Economy Action Plan are a sign of a general trend towards waste reduction and promoting sustainable consumption habits.<sup>41</sup>

An important step in this is the EU's focus on prolonging the life of products and avoiding premature disposal. Recent regulations seek to give consumers the information they need before purchasing and on the durability of the products, as well as the ability to repair and impact on the environment. The proposed Eco-design for Sustainable Products Regulation

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<sup>39</sup> Vellore Citizens Welfare Forum v. Union of India, supra note 18.

<sup>40</sup> Consumer Protection Act, 2019, preamble, No. 35, Acts of Parliament, 2019 (India).

<sup>41</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, The European Green Deal, COM (2019) 640 final (Dec. 11, 2019).

(ESPR) also aims to establish sustainability requirements for products placed on the European market, which will incentivise companies to consider sustainability and durability.<sup>42</sup>

It's interesting here with the European approach because sustainability isn't only an environment issue, it's also a consumer protection issue. The aim of the regulatory framework is to make the products more lasting, transparent and make sure that the consumers are not economically harmed and the environment is not degraded. This could be helpful for India since India's consumer protection legislation has been silent on recognising durability as a part of product quality.<sup>43</sup>

## **B. France and the Regulation of Planned Obsolescence**

In terms of the legal reaction to planned obsolescence, France is currently one of the most progressive amongst the European countries. Aware of the environmental and economic implications of deliberate product obsolescence, French government is taking steps to ban business practices which promote the premature replacement of products.<sup>44</sup>

In France, the focus is on giving the consumer the right to purchase products that will have an appropriate lifespan. This could have legal implications for producers whose products are intended to be used once or after which have no further use. Consumer information schemes have also been set up in France, with the aim of consumers being better informed on the durability and reparability of products. Consumers are encouraged to buy more durable products if they are given clear information about the durability and reparability of the products. The French method acknowledges durability as a valid regulatory factor but also makes sure that it does not stifle business innovation. These measures do not limit consumer choice, but allow consumers to make better choices on the basis of the long-term value of the product and better transparency. Meanwhile, they incentivise manufacturers to invest in making more durable and better-quality garments, rather than the 'make and discard' approach to fast fashion.<sup>45</sup>

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<sup>42</sup> Proposal for a Regulation of the European Parliament and of the Council Establishing a Framework for Setting Eco-design

<sup>43</sup> Ellen Macarthur Foundation, *supra* note 5, at 24-29.

<sup>44</sup> French Consumer Code, art. L441-2 (Fr.) (planned obsolescence provisions).

<sup>45</sup> *Id.*

### **C. The Australian Consumer Law and Product Durability**

Under the Australian Consumer Law, goods supplied to consumers must be of satisfactory quality and durability is one of the factors to consider when determining whether goods are of satisfactory quality. A product is therefore expected to perform as intended for a reasonable period, taking into consideration the nature, price and consumer expectation. An important characteristic of the Australian approach is that durability is considered as part of the quality of a product rather than an additional responsibility. This development is very similar to the argument of this paper that product quality must include longevity, as well as functionality. Australian Consumer Law also provides for remedies when the goods don't prove to be of satisfactory quality because they are not fit for their purpose for a reasonable time following their purchase despite having no obvious defect.<sup>46</sup>

This is especially applicable to the fashion sector, in which lifespan of clothing has become extremely short due to fast fashion and designed obsolescence. The law will help manufacturers make more durable, good quality products and take more responsibility for the quality of products over time. This kind of strategy improves the consumer protection, it helps the environment, it decreases the production of textiles and waste, and it stimulates more conscious production and consumption habits.<sup>47</sup>

### **D. Relevance of Comparative Developments for India**

It is increasingly recognised that the durability of products is not only an environmental issue, but a basic principle of consumer protection, as illustrated by the approaches adopted by the European Union, France and Australia. These jurisdictions realise that consumers deserve products that have a reasonable life span and that are a good value, and they also understand that many durable products have a positive impact on sustainability by lowering waste and conserving natural resources.

While the Indian legal system does not explicitly mention product durability as one of the aspects of consumer protection, the broad and purpose-driven provisions of the Consumer Protection Act, 2019, can be read to include product durability. The experiences of these jurisdictions point to the practicality of such an interpretation and its alignment with today's

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<sup>46</sup> Id.

<sup>47</sup> Cooper, *supra* note 11, at 20-24.

interpretation of consumer protection.

The regulatory frameworks of these jurisdictions show that there is no need for separate regulatory regimes to exist for consumer protection and environmental sustainability. Rather, both goals can be achieved at once by using legal strategies which promote product longevity, transparency and responsible production practices. These comparative models offer valuable guidance and direction for future legal and policy developments in India's efforts to foster sustainable development and responsible consumption.<sup>48</sup>

## **V. REFORMING CONSUMER PROTECTION FOR SUSTAINABLE FASHION**

### **A. Introducing Eco-Durability Labelling**

One of the many issues in the fashion industry is the fact that there's no information as to how long one can expect a garment to last. Frequently, consumers buy based on price, brand, or marketing, and not on objective measures of product quality and durability. Therefore, they cannot distinguish between durable goods and short-term goods, and information asymmetry arises.<sup>49</sup>

India needs to explore implementing an eco-durability labelling for fashion products to fill this gap. These labels could include details on how long the clothes are likely to last, what it is made from, whether it can be mended and its impact on the environment. Other jurisdictions have implemented comparable measures to foster more sustainable consumption, which aimed to increase transparency and minimise waste..<sup>50</sup>

Eco-durability labelling would have a number of advantages. It would help the consumers to make decisions about buying the garments and make the manufacturers to produce quality garments with longer life period, and would help in reducing the textile waste by purchasing long-life textiles. Most importantly, it would increase the consumer's right to information by providing more transparency for a product's long-term performance, instead of restricting it to the point of sale.<sup>51</sup>

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<sup>48</sup> Consumer Protection Act, 2019, S. 2(10), supra note 31.

<sup>49</sup> Reisch & Thøgersen, supra note 11, at 8-10.

<sup>50</sup> Proposal for a Regulation of the European Parliament and of the Council Establishing a Framework for Setting Eco-design Requirements for Sustainable Products, COM (2022) 142 final (Mar. 30, 2022).

<sup>51</sup> Consumer Protection Act, 2019, S 2(9), supra note 31.

## **B. Establishing Minimum Durability Standards**

Regulations aimed at ensuring compliance must exist and be meaningful to match the durability as part of quality. The Bureau of Indian Standards Act, 2016 allows the authorities to establish standards of quality for products, however, practically there are no durability standards for fashion products. If the standard is not set, the manufacturers are able to sell a product that will last longer or less without providing information about the performance.<sup>52</sup>

As a consequence, consumers are easily exposed to a loss resulting from the premature failure of a product, without being able to evaluate durability at the time of buying. The setting of minimum durability requirements for the most prevalent fashion products would therefore enhance the protection of consumers and increase the market's responsibility. These standards should not be overly burdensome for manufacturers. Instead, they should define reasonable standards, in line with consumer expectations and industry practice.

The regulatory requirements would help to encourage the longevity of products and discourage planned obsolescence. Regulators could thus help to safeguard consumer's well-being and the environment by making sure products have a minimum level of durability.<sup>53</sup>

## **C. Regulating Sustainability Claims and Greenwashing**

Many fashion brands are now touting their products as “sustainable,” “ethical” or “eco-friendly,” as consumers are more aware of environmental sustainability issues. As more businesses pursue sustainability, there has been an increase in the number of unsubstantiated environmental claims, leading to concerns about greenwashing.<sup>54</sup>

Greenwashing is the process of making false, misleading or unverifiable claims about the environmental benefits of a product or business. These claims mislead consumers and are misleading in terms of consumer decision making because they give a false impression of sustainability. Not only does greenwashing deceive consumers, but it also puts companies that take the time to be green at a disadvantage.<sup>55</sup>

The Consumer Protection Act, 2019 is a legal framework to combat misleading advertisements

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<sup>52</sup> Bureau of Indian Standards Act, 2016, No. 11, Acts of Parliament, 2016 (India).

<sup>53</sup> Packard, *supra* note 10, at 55-58.

<sup>54</sup> United Nations Environment Programme, *supra* note 9, at 6-8.

<sup>55</sup> *Id.*

and unfair trade practices. But, more stringent regulations are needed to make sustainable claims in the fashion world credible. When environmental claims are made, it is important that businesses are required to provide sound evidence to support it, and that there are clearly defined standards and robust monitoring and enforcement measures.<sup>56</sup>

In that regard, there is also something to be learned from the *Christian Louboutin SAS v. Nakul Bajaj case*<sup>57</sup>. The dispute was more about trademark infringement and intermediary liability, but the Court noted that it is important to stop consumer deception and misleading representations in the marketplace. The same should apply to sustainability claims of fashion companies. The transparency and honesty of environmental marketing are crucial to safeguarding consumers and fostering fair competition in the fashion sector.

#### **D. Consumer Awareness and Sustainable Consumption Strengthening**

There can be no sustainable consumption without consumer behavioural change, even if the legislation is in place. The consumers are the central point of the market practices and their buying and consumption behaviours are of critical importance to determine the market practices. Awareness campaigns should thus be accompanied by regulating measures.<sup>58</sup>

Government authorities, educational institutions and consumer groups should proactively raise public awareness of the negative impact of fast fashion and the positive impact of durable products. Consumers should be urged to think beyond its cost and trendiness when buying a product and take into account its durability and quality and environmental impact.

The increasing awareness of consumers has provided sustainable consumption a growing importance in the marketplace. The decisions on purchasing goods are no longer taken only based on immediate needs but also social and environmental impacts of consumption. Consumers, therefore, can have a big impact on minimizing textile waste, conserving natural resources, and forcing companies to take more sustainable actions.

Finally, it takes multiple stakeholders such as consumers, businesses and regulators to promote durability. Manufacturers need to be responsible in their production, regulators need to be transparent and accountable in their regulation, and consumers need to be empowered to make

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<sup>56</sup> Consumer Protection Act, 2019, SS 2(28), 2(47), No. 35, Acts of Parliament, 2019 (India).

<sup>57</sup> 2018 SCC Online Del 12215.

<sup>58</sup> United Nations Environment Programme, *supra* note 9, at 7-10.

informed choices. This holistic strategy would not only enhance consumer protection but also contribute to India's sustainable development and environmental conservation efforts.<sup>59</sup>

## VI. CONCLUSION

The advent of fast fashion has revolutionized the buying habits of consumers, encouraging them to consume more often and promote a culture of "buy-use-discard. This model has made textiles cheaper and more available to consumers, but it has also led to waste, resource depletion, pollution and carbon emissions. This means that consumer protection and environmental protection are increasingly intertwined and that a comprehensive approach is required in the form of a legal response.<sup>60</sup>

In this article, the authors have tried to explore the linkage between sustainable fashion, consumer rights and protection of environment under the Consumer Protection Act, 2019. It states that the conventional conception of product quality, which focuses on functionality and performance, is insufficient when it comes to fast fashion and planned obsolescence. Rather, durability should be seen as a part of quality, which can increase consumer well-being, value for money and sustainable consumption. Durability can be taken into account in the concept of product quality with adequate room for a purposive interpretation of the Consumer Protection Act, 2019.<sup>61</sup>

The European Union (EU), France and Australia (AU) also indicate that durability is recognised as an important part of consumer protection as shown in comparative developments. Based on these experiences, India needs some changes in policies, including eco-durability labelling, minimum standards for durability of fashion products, enhanced control of sustainability claims, and increased consumer awareness campaigns. The introduction of the concept of durability under the Consumer Protection Act 2019 would further help in strengthening the consumer rights and promote the constitutional goal of environmental protection and sustainable development, paving the way for a more responsible and sustainable fashion system in India.<sup>62</sup>

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<sup>59</sup> Vellore Citizens Welfare Forum v. Union of India, supra note 18.

<sup>60</sup> Ellen Macarthur Foundation, supra note 3, at 17-24.

<sup>61</sup> Consumer Protection Act, 2019, S 2(10), supra note 31; Lucknow Development Authority v. M.K. Gupta, supra note 13.

<sup>62</sup> Vellore Citizens Welfare Forum v. Union of India, supra note 18