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## Demystifying Consumer Rights: The Framework of Redressal in the Consumer Protection Act 2019

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*The article is bifurcated into two distinct parts. The initial part exclusively concentrates on comprehending a spectrum of consumer rights in a broader context. Meanwhile, the subsequent section delves into the exploration of redressal mechanisms tailored to address consumer grievances under the ambit of the Consumer Protection Act 2019. This division segregates the content into a detailed analysis of diverse consumer rights and a focused examination of the structured mechanisms designed for grievance resolution within the legal framework outlined by the Act. The first section that delves into comprehending consumer rights focuses on its evolution, diverse categories, comparative analysis across international standards, and digital consumer rights. Conversely, the second segment that navigates the terrain of redressal mechanisms as per the Consumer Protection Act 2019 offers an overview of the mechanisms, evaluates their operational efficiency, explores the landscape of alternate dispute resolution as a redressal avenue, and sheds light on the challenges encountered during the implementation of these mechanisms. These segments form the crux of the article, with the former centered around consumer rights and the latter focused on the mechanisms facilitating redressal.*

**Keywords:** *consumer rights, redressal, unfair trade practices, alternate dispute resolution.*

## **INTRODUCTION - EVOLUTION OF CONSUMER RIGHTS.**

Consumer rights in India have evolved significantly from an era of limited legal safeguards to comprehensive protection. Initially, consumer rights were scarcely recognized, leading to exploitative practices. The seminal moment arrived with the Consumer Protection Act of 1986, marking a shift toward robust safeguards for consumers. Over time, subsequent amendments and advancements in legislation, coupled with awareness campaigns, empowered consumers. The evolution reflects a journey from minimal rights to a structured framework encompassing fair trade practices, redressal mechanisms and consumer education, progressively safeguarding the interests and rights of consumers across various sectors in India.

Consumer rights globally have also evolved from an era of minimal protection to a comprehensive framework safeguarding consumer interests. Originating as a response to rampant exploitation, this evolution gained momentum with landmark initiatives such as Ralph Nader's consumer advocacy in the 1960s. Over time, countries enacted laws like the Magnuson-Moss Warranty Act in the U.S. and the Consumer Protection Act in the UK, setting standards for fair trade, product safety, and redressal. This evolution signifies a transformation from minimal acknowledgment of consumer rights to an established global ethos promoting fair practices, product safety, and accessible avenues for consumer grievance redressal.

## **ENUMERATION OF CONSUMER RIGHTS**

The Consumer Protection Act 2019 outlines six key rights for consumers in India. The six consumer rights as per Section 2(9) of the act are:<sup>1</sup>

1. The right to be protected;
2. The right to be informed;
3. The right to be assured;
4. The right to be heard;
5. The right to seek redressal;

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<sup>1</sup> Consumer Protection Act 2019, s 2(9)

6. The right to consumer awareness.<sup>2</sup>

**These are explained in the points below:**

**1. Right to Safety:** Consumers have the right to be protected against goods and services that are hazardous to health and safety. This right has been provided to protect consumers from hazardous goods or goods that pose a threat to the lives of consumers. The Consumer Protection Act, 2019 under section 20 empowers the central authority to recall defective products or where substantial evidence shows that the product was sold after indulging in unfair trade practices.<sup>3</sup>

**2. Right to Information:** Consumers have the right to be informed about the quality, quantity, potency, purity, standard, and price of goods or services. Consumers should insist on getting all the information about the product or service before making a choice or a decision. The Consumer Protection Act 2019 for the first time in the history of consumerism in India under section 21 has strict provisions for controlling misleading and fake advertisements and taking action on the endorser of the brand.<sup>4</sup> The Supreme Court has also held that misleading and deceptive advertising does not fall under the protection of Article 19<sup>5</sup> i.e. the Right to freedom of speech and expression.<sup>6</sup>

**3. Right to Choose:** Consumers have the right to choose from various goods and services at competitive prices with an assurance of quality.

**4. Right to Representation:** Consumers have the right to representation in consumer forums and can present their grievances effectively. The Consumer Protection Act, 2019 defines this right as the right to be heard and be assured that consumer interests will receive due consideration before the appropriate forum. Every consumer has a right to raise his or her

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<sup>2</sup> Divyanshu Jain, 'A Study of Consumer Rights Under Consumer Protection Act 2019' (*Legal Service India*) <<https://www.legalserviceindia.com/legal/article-5309-a-study-of-consumer-rights-under-consumer-protection-act-2019.html#:~:text=The%20six%20consumer%20rights%20are,the%20right%20to%20consumer%20awareness>> accessed 27 November 2023

<sup>3</sup> *Ibid*

<sup>4</sup> *Ibid*

<sup>5</sup> Constitution of India, art 19

<sup>6</sup> *Tata Press Ltd. v Mahanagar Telephone Nigam Ltd.* (1995) SCC (5) 139

concern before the dedicated platform. The act establishes the dispute redressal commissions at district, state and national levels under Section 28<sup>7</sup>, Section 42<sup>8</sup> and Section 53<sup>9</sup> of the act respectively.<sup>10</sup>

**5. Right to Redressal:** Consumers have the right to seek redressal against unfair trade practices or exploitation, with provisions for fair and prompt resolution of disputes. This right is the most powerful object in the hands of consumers; it justifies the essence of the act that it aims to satisfy. This right is provided against unfair trade practices, restrictive trade policies, and unscrupulous violations of consumers. It also seeks to enforce all other rights provided to consumers in the act.<sup>11</sup>

**6. Right to Consumer Education:** Consumers have the right to be educated about their rights and responsibilities, enabling informed decision-making.

These rights collectively ensure the protection, empowerment, and fair treatment of consumers in transactions involving goods and services under the purview of the Consumer Protection Act 2019.

## COMPARATIVE ANALYSIS OF CONSUMER RIGHTS WITH INTERNATIONAL STANDARDS

India's Consumer Protection Act 2019 highlights both compliance with and deviations from international standards in safeguarding consumer rights. The Act closely aligns with global norms concerning the right to safety, mirroring the European Union's General Product Safety Directive (GPSD) by emphasizing product safety and consumer well-being. Similarly, the establishment of Consumer Dispute Redressal Commissions reflects compliance akin to systems in countries like Australia, ensuring accessible grievance resolution. However, deviations arise in information disclosure; unlike the robust information provisions in the United States

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<sup>7</sup> Consumer Protection Act 2019, s 28

<sup>8</sup> Consumer Protection Act 2019, s 42

<sup>9</sup> Consumer Protection Act 2019, s 53

<sup>10</sup> Jain (n 2)

<sup>11</sup> *Ibid*

Magnuson-Moss Warranty Act, India might lack stringent regulations mandating comprehensive product details. Moreover, while India promotes consumer choice, aspects of fostering competitive markets might deviate from standards akin to the UK's Competition and Markets Authority (CMA). Although strides are made in representation and consumer education, further alignment with international models, as seen in countries like the UK and Japan, could augment advocacy platforms and educational effectiveness.

## **DIGITAL CONSUMER RIGHTS**

The Consumer Protection Act 2019 in India addresses digital consumer rights, recognizing the evolving landscape of online commerce and digital transactions. Section 94<sup>12</sup> deals with measures to prevent unfair trade practices in e-commerce thus highlighting the broadened scope of this act compared to the previous legislation of 1986. On July 23, 2020, the Ministry of Consumer Affairs, Food and Public Distribution released the Consumer Protection (E-Commerce) Rules, 2020, exercising authority under section 101(1)(zg) of the Consumer Protection Act 2019.<sup>13</sup> These rules, effective upon their publication in the Official Gazette, bear the short title of the Consumer Protection (E-Commerce) Rules, 2020. These rules apply to goods and services traded digitally, all e-commerce models, and various retail formats, aiming to prevent unfair trade practices. They outline provisions for goods and services traded online, aiming to protect consumer data, prevent misleading advertisements, and address unfair trade practices across various e-commerce models. These rules serve as an extension of the Consumer Protection Act, 2019, specifically addressing concerns related to e-commerce transactions and information security for consumers. However, personal activities outside regular commercial endeavours are exempt, but non-Indian e-commerce entities catering to Indian consumers fall under their scope, regardless of location. These rules primarily seek to regulate e-commerce transactions, safeguarding consumer rights and ensuring fairness in digital commerce.

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<sup>12</sup> Consumer Protection Act 2019, s 94

<sup>13</sup> Consumer Protection Act 2019, s 101(1)(zg)

**It encompasses several key aspects:**

- 1. Right to Information Security:** The rules emphasize consumers' right to data protection and privacy, aiming to safeguard personal information shared during online transactions.
- 2. Right to Transparent Terms:** Consumers have the right to clear and transparent terms and conditions while engaging in digital transactions, ensuring fairness and understanding of contractual obligations.
- 3. Right to Redressal in E-commerce:** The rules introduce measures to facilitate redressal for grievances arising from e-commerce transactions, providing avenues for consumers to address disputes and seek resolution.
- 4. Right to Consumer Education in Digital Transactions:** Promoting awareness and education about safe online practices, and informing consumers about potential risks and precautions in digital transactions.
- 5. Right to Fair Digital Practices:** Establishing norms to prevent unfair digital practices such as misleading advertisements, false claims, and deceptive marketing strategies online.

These digital consumer rights signify a step towards regulating and protecting consumers engaging in digital transactions, providing safeguards and avenues for grievance redressal in the realm of e-commerce and digital commerce platforms.

## **OVERVIEW OF REDRESSAL MECHANISMS**

The Consumer Protection Act 2019 establishes robust redressal mechanisms aimed at resolving consumer grievances efficiently. The act intricately covers various redressal mechanisms across its chapters. Chapter 2 outlines the functioning of Consumer Protection Councils, Chapter 3 details the role of Central Consumer Protection Authority and Chapter 4 specifically addresses the operations of Consumer Disputes Redressal Commissions while Chapter 5 is dedicated to the principles and processes of Mediation. These individual chapters provide a comprehensive

and detailed framework, delineating the roles and procedures essential for addressing consumer grievances within distinct avenues under the Act. These are explained in the points below:

**1. Consumer Dispute Redressal Commissions:** The Act establishes three-tiered commissions at the district, state, and national levels to adjudicate consumer disputes based on the value of the claim. These forums provide accessible avenues for consumers to seek redressal, ensuring swift resolution of complaints. Section 28 to Section 73<sup>14</sup> of the Consumer Protection Act 2019 deals with the framework and operations of the various Consumer Disputes Redressal Commission.

The State Government is directed to establish a District Consumer Disputes Redressal Commission, known as the District Commission, in each district through a notification. The State Government holds the discretion to create multiple District Commissions within a district if deemed necessary. Each District Commission is composed of a President and a varying number of members, not less than two, as prescribed in consultation with the Central Government. Regarding the qualifications, recruitment, appointment procedures, tenure, resignation, and removal processes of the President and members of the District Commission, the Central Government holds the authority to create rules through notification. Additionally, the State Government is empowered to create regulations through notification concerning the salaries, allowances, and other terms of service for the President and members of the District Commission.<sup>15</sup>

The State Government is mandated to establish the State Commission, through notification in the respective State. The State Commission shall primarily operate from the State capital but may conduct functions in other locations as notified by the State Government, including the establishment of regional benches if deemed necessary. Each State Commission shall comprise a President and a varying number of members, not less than four, as prescribed in consultation with the Central Government. The Central Government, through notification, will be determining the qualifications, recruitment process, appointment procedures, tenure, resignation, and removal criteria for the President and members of the State Commission.

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<sup>14</sup> Consumer Protection Act 2019, s 28

<sup>15</sup> *Ibid*

Meanwhile, the State Government, via notification, shall be establishing regulations concerning salaries, allowances, and terms of service for the President and members of the State Commission.<sup>16</sup>

The Central Government shall establish the National Consumer Disputes Redressal Commission (National Commission) via notification, which will be operating mainly from the National Capital Region but with the option to function elsewhere. It shall consist of a President and a minimum of four members, governed by rules regarding their qualifications, appointments, terms, salaries, allowances, resignation, and removal. The appointees will serve a specified term, with age limits specified in the rules. Provisions from the Tribunal Reforms Act 2021, apply to the qualifications, appointments, terms, and other conditions for Presidents and members appointed after its commencement. Once appointed, their salary, allowances, and conditions cannot be altered to their disadvantage.<sup>17</sup>

**2. Jurisdiction and Adjudication:** Each commission possesses jurisdiction over disputes falling within its specified value threshold, granting them the authority to hear and adjudicate cases related to defective goods, deficient services, unfair trade practices, and more.

Section 34<sup>18</sup> of the Consumer Protection Act 2019 act defines the jurisdiction of the district commission, specifying the types of cases it handles and Section 35<sup>19</sup> of the act outlines the manner in which complaint shall be made. In other words, Section 35<sup>20</sup> addresses who can lodge a complaint within this commission. The District Commission's jurisdiction covers complaints involving goods or services valued up to one crore rupees unless otherwise specified by the Central Government. Complaints can be filed electronically and involve consumers, recognized associations, or government bodies, with accompanying prescribed fees.

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<sup>16</sup> Consumer Protection Act 2019, s 42

<sup>17</sup> Consumer Protection Act 2019, s 53

<sup>18</sup> Consumer Protection Act 2019, s 34

<sup>19</sup> Consumer Protection Act 2019, s 35

<sup>20</sup> *Ibid*



The State Commission's jurisdiction covers complaints exceeding one crore but not surpassing ten crore rupees, unfair contract complaints up to ten crore rupees, and appeals against District Commission rulings in the State. It also intervenes in District Commission cases where jurisdictional errors or irregularities occur. The State Commission functions through Benches, deciding by majority opinion and referring unresolved issues to the President. This is dealt with in section 47<sup>21</sup> of the act.

Section 58 of the Act<sup>22</sup> pertains to the jurisdiction of the National Consumer Dispute Redressal Commission. The National Commission as per the section possesses jurisdiction over cases involving goods or services valued above ten crore rupees and disputes related to unfair contracts exceeding this value. It serves as an appellate body for appeals against State Commissions and Central Authority's orders. Additionally, it intervenes in consumer disputes handled by State Commissions in instances of jurisdictional irregularities, operating through Benches with decisions made by majority opinion.

**3. Alternate Dispute Resolution (ADR):** The Act encourages mediation and arbitration as alternative dispute resolution methods, allowing parties to settle disputes amicably outside the formal court system. This provision aims to expedite dispute resolution and reduce the burden on the formal legal process. References to mediation are notably present in Sections 37<sup>23</sup> and 38<sup>24</sup> of the Act 2019.

**4. Consumer Protection Councils:** The Act facilitates the establishment of Consumer Protection Councils at various levels to promote consumer awareness, protect their rights, and render assistance in consumer-related matters. Sections 3 to 5 of the Act specifically address the establishment and functioning of the Central Consumer Protection Council, while Sections 6 and 7 are dedicated to the State Consumer Protection Council. Further, Sections 8 and 9 delineate the roles and operations of the District Consumer Protection Council. These provisions

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<sup>21</sup> Consumer Protection Act 2019, s 47

<sup>22</sup> Consumer Protection Act 2019, s 58

<sup>23</sup> Consumer Protection Act 2019, s 37

<sup>24</sup> Consumer Protection Act 2019, s 38

collectively fall under the domain of Chapter 2 within the Act, detailing the setup and responsibilities of the respective tiers of Consumer Protection Councils at various levels.

The Central Government through notification establishes the Central Consumer Protection Council, known as the Central Council. It operates as an advisory body, chaired by the Minister-in-charge of the Department of Consumer Affairs in the Central Government and comprises other members representing various interests as prescribed. The Council convenes meetings as needed, with at least one annual meeting. The Chairperson determines the meeting schedules and business transaction procedures. The primary objective of the Central Council is to provide advice concerning the promotion and safeguarding of consumers' rights under the Consumer Protection Act.<sup>25</sup>

Every State Government through notification, aiming to provide advisory functions, establishes the State Consumer Protection Council, referred to as the State Council. Chaired by the Minister-in-charge of Consumer Affairs in the State Government, it includes members representing prescribed interests and up to ten members nominated by the Central Government. The State Council convenes meetings as necessary, with a minimum of two meetings annually, following prescribed procedures for business transactions. The primary objective of each State Council is to offer guidance on promoting and safeguarding consumer rights within the respective State as per the Consumer Protection Act.<sup>26</sup>

The State Government through notification, functioning in an advisory capacity, establishes the District Consumer Protection Council, termed the District Council, for each district. Chaired by the district's Collector, it includes official and non-official members representing prescribed interests. The Council convenes meetings as necessary, ensuring a minimum of two annual meetings, and conducts its business following prescribed procedures. The primary objective of each District Council is to provide guidance concerning the promotion and safeguarding of consumer rights within the respective district as per the Consumer Protection Act.<sup>27</sup>

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<sup>25</sup> Consumer Protection Act 2019, s 3

<sup>26</sup> Consumer Protection Act 2019, s 6

<sup>27</sup> Consumer Protection Act 2019, s 8

Overall, the Consumer Protection Act 2019 offers a comprehensive framework of redressal mechanisms, encompassing dedicated forums, alternate dispute resolution avenues, and support structures to ensure timely and effective resolution of consumer disputes.

## **EFFICIENCY AND EFFECTIVENESS OF REDRESSAL MECHANISMS**

The effectiveness and efficiency of redressal mechanisms under the Consumer Protection Act 2019 showcase notable aspects:

**1. Accessibility and Timeliness:** These mechanisms provide accessible forums at multiple levels, allowing consumers to lodge complaints without significant procedural complexities. Additionally, they aim for expeditious resolution, ensuring timely disposition of cases to prevent prolonged litigation.

**2. Adjudication and Dispute Resolution:** The structured tiers of Consumer Dispute Redressal Commissions offer a systematic approach to adjudicating disputes based on the claim's value. The inclusion of Alternate Dispute Resolution methods further enhances efficiency by offering flexible, less formal, and quicker routes for dispute resolution.

**3. Empowerment through Redressal:** By providing effective resolutions and remedies to consumers, these mechanisms empower individuals to seek justice and obtain compensation for grievances related to deficient goods, services, or unfair practices.

**4. Consumer Awareness and Participation:** The provision of Consumer Protection Councils aids in fostering consumer awareness and participation, contributing to the effectiveness of the redressal mechanisms by promoting education and guidance for consumers.

While these mechanisms establish a structured framework, their overall effectiveness and efficiency may still face challenges related to the volume of pending cases, infrastructure, and the need for continuous improvement to streamline processes and ensure swifter redressal for consumer disputes.

## **ROLE OF ALTERNATE DISPUTE RESOLUTION IN CONSUMER REDRESSAL**

The Consumer Protection Act 2019 incorporates Alternate Dispute Resolution (ADR) mechanisms as supplementary avenues for resolving consumer disputes efficiently. The Consumer Protection Act 2019 introduces mediation as a formal mechanism for dispute resolution, emphasizing its significance in Sections 37 and 38 along with entire chapter 5 of the act. It encourages parties to settle disputes amicably, thereby reducing the burden on the judicial system.

Section 37 of the Act stipulates that during the first hearing or any subsequent stage of the complaint if the District Commission perceives the potential for an acceptable settlement between the parties, it may direct them to provide written consent within five days for their disputes to be settled via mediation as outlined in Chapter 5 unless specified otherwise. If both parties agree to mediation and provide written consent, the District Commission must refer the matter for mediation within five days. In such cases, the mediation procedures defined in Chapter 5 shall be applicable.

Additionally, Section 38(1)<sup>28</sup> specifies that upon admission of a complaint or if mediation attempts fail, the District Commission will proceed with addressing the complaint.

The notable sections within Chapter 5 include Section 74, which focuses on the establishment of a consumer mediation cell, followed by Section 75, which addresses the empanelment of mediators. Subsequently, Section 79 delineates the mediation procedure, while Section 80 specifically outlines the process for achieving settlements through mediation.

In contrast, the Consumer Protection Act 1986 did not explicitly delineate provisions for mediation. It primarily focused on the establishment of Consumer Disputes Redressal Forums, Consumer Disputes Redressal Commissions, and the National Consumer Disputes Redressal Commission, without an outlined framework for mediation as a preferred alternative dispute resolution method.

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<sup>28</sup> Consumer Protection Act 2019, s 38(1)

In recent times, the use of mediation before legal action is also encouraged in commercial disputes, aiding in safeguarding consumer rights. By allowing pre-litigation mediation with mutual consent, a collaborative and efficient approach to resolving conflicts between consumers and businesses is promoted. Specifically for commercial disputes concerning consumers, there are mediation guidelines, offering a structured process for amicable resolutions and reinforcing trust in mediation's effectiveness in protecting consumer interests within the commercial sphere.<sup>29</sup>

The introduction of mediation provisions in the Consumer Protection Act 2019 marks a significant shift, emphasizing the importance of alternative dispute resolution methods like mediation, aiming for faster, cost-effective, and mutually agreeable resolutions between consumers and service providers.

## CHALLENGES IN IMPLEMENTING REDRESSAL MECHANISMS

Implementing redressal mechanisms encounters several challenges. These include:

**1. Backlog of Cases:** The accumulation of a high volume of unresolved cases within consumer redressal mechanisms represents a significant challenge. These backlogs lead to prolonged waiting times for resolution, ultimately impeding the timely delivery of justice. Recognizing this issue, the Department of Consumer Affairs aims to leverage AI-enabled solutions. By implementing such technological advancements, they aim to streamline case management, enhance efficiency, and significantly reduce the massive backlog of pending cases. This initiative holds promise in expediting the resolution process and ensuring swifter justice for aggrieved consumers.

**2. Infrastructure and Resources:** The effectiveness of redressal forums is heavily reliant on adequate infrastructure, comprising competent staffing and modernized technology. Inadequate resources directly affect the efficiency of these forums, causing delays and inefficiencies in handling consumer complaints. Insufficient staffing levels and outdated

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<sup>29</sup> Mediation Act 2023, s 5

technological systems hinder the timely processing of cases, thereby prolonging the resolution process. Investing in improved infrastructure and allocating adequate resources, including skilled personnel and upgraded technology, is essential to enhance the overall effectiveness and efficiency of consumer redressal mechanisms.

**3. Awareness and Accessibility:** Limited awareness among consumers regarding available redressal mechanisms and their accessibility, especially in remote or rural areas, constitutes a major barrier to seeking redressal. Many consumers remain unaware of their rights or how to navigate the process of lodging complaints and seeking resolution. Additionally, in remote areas, the accessibility of these mechanisms may be constrained, further exacerbating the challenge for individuals seeking justice. Efforts to bridge this gap include extensive awareness campaigns, education initiatives, and the establishment of accessible redressal forums in remote regions. These endeavours are crucial to ensure that consumers, irrespective of their location or socio-economic status, can easily access and benefit from the available redressal mechanisms.

**4. Legal Complexity:** The intricacy and complexity of legal procedures within consumer redressal mechanisms often act as deterrents for individuals seeking resolution independently. Consumers might find it daunting to navigate through legal formalities, paperwork, and procedural complexities involved in lodging complaints and pursuing their cases. Simplifying and streamlining the legal processes, providing clear and accessible guidance, and offering assistance through legal aid services can significantly alleviate these barriers. Making the redressal process more user-friendly and understandable is vital to encourage consumer participation and ensure equitable access to justice.

Addressing these challenges requires reforms to streamline processes, augment resources, enhance awareness, and simplify procedures for efficient consumer grievance redressal.

## CONCLUSION

In conclusion, the Consumer Protection Act 2019 stands as a significant milestone in safeguarding consumer rights and ensuring fair and transparent trade practices. Through its comprehensive framework and redressal mechanisms, it empowers consumers, offering

avenues for grievance resolution and legal recourse. This legislation not only outlines rights but also signifies a pivotal step towards fostering consumer-centric markets. As awareness grows and enforcement strengthens, the Act's efficacy will continue to fortify consumer confidence, paving the way for a more equitable marketplace where consumers are protected and empowered.

Further, the act represents a significant step towards safeguarding consumer rights in the digital age, notably addressing concerns in e-commerce. However, to address the challenges in redressal mechanisms, enhancing infrastructure, employing technology for efficient case management, and expediting dispute resolution processes are crucial. Additionally, educating consumers about their rights, fostering awareness through campaigns, and facilitating easy access to grievance redressal forums are vital. Ultimately, consumer awareness is pivotal for the successful implementation of rights under the Act, as an informed consumer base ensures active participation in redressal mechanisms, thereby strengthening the efficacy of consumer protection measures. Consumer awareness is not merely a tool; it is a torchbearer, guiding the way toward a marketplace where rights reign supreme and consumers are not exploited.

Hence, it is important to remember that in a landscape where consumer empowerment is the cornerstone of justice, fostering awareness, fortifying redressal mechanisms, and upholding rights become the triumphant pillars of a fair, inclusive, and empowered society.