



INTERNATIONAL JOURNAL OF HUMAN RIGHTS LAW REVIEW

An International Open Access Double Blind Peer Reviewed, Referred Journal

Volume 4 | Issue 4 | 2025

Art. 2

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Behaviour Theories: Bridging Legal Gaps
with Behavioural Insights**

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Recommended Citation

Abinaya Sundari M. and Abirami Sundari M., *A Critical Analysis of Consumer Protection Laws through the Lens of Consumer Behaviour Theories: Bridging Legal Gaps with Behavioural Insights*, 4 IJHRLR 13-32 (2025).

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A Critical Analysis of Consumer Protection Laws through the Lens of Consumer Behaviour Theories: Bridging Legal Gaps with Behavioural Insights

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Manuscript Received
22 June 2025

Manuscript Accepted
24 June 2025

Manuscript Published
28 June 2025

ABSTRACT

The dynamic interplay between consumer protection laws and consumer behaviour theories forms a crucial area of legal and behavioural research in modern consumer markets. This paper seeks to critically examine how legislative frameworks and judicial precedents surrounding consumer rights influence, and are influenced by, the psychological, sociological, and economic drivers of consumer behaviour. Drawing primarily on secondary sources such as statutory texts (The Consumer Protection Act, 2019), government reports, empirical studies, and academic literature, this research explores the evolving jurisprudence of consumer protection in India, and juxtaposes it with global developments to assess its adequacy in safeguarding consumer interests in the digital and service economies. The paper is structured around key subtopics, beginning with a doctrinal analysis of the historical evolution of consumer protection laws in India, with reference to landmark judgments. It then analyses the theoretical underpinnings of consumer decision-making, referencing behavioural models like the Engel-Kollat-Blackwell Model and Maslow's Hierarchy of Needs, to demonstrate how laws often assume rationality where psychology indicates otherwise. The paper also investigates how deceptive marketing, product liability, and information asymmetry affect consumer autonomy, and assesses the role of regulatory bodies like the Central Consumer Protection

Authority (CCPA) in bridging these gaps. Further, the study compares Indian law with international frameworks such as the U.K. Consumer Rights Act, 2015, and the U.S. Federal Trade Commission Act to suggest reforms. The research concludes with policy recommendations aimed at creating a consumer-centric legal ecosystem that is aligned with contemporary consumer behaviour patterns, particularly in e-commerce and digital service platforms. This paper, through a multidisciplinary approach, seeks to contribute to both legal scholarship and policy discourse on effective consumer empowerment.

KEYWORDS

Behavioural Theories, Consumer Behaviour, International Consumer Law, Legal Framework, Product Liability.

INTRODUCTION

Understanding consumer welfare in the contemporary consumer-driven economy increasingly depends on the interaction between behavioral influences and legal protections. A legal framework known as consumer protection laws is intended to guarantee accountability, equity, and openness in business dealings. At the same time, theories of consumer behavior shed light on the sociological and psychological aspects that influence people's purchasing choices. These two fields work together to provide a comprehensive understanding of how consumers engage with markets and how laws and policies can better meet their changing needs. The Consumer Protection Act of 1986 marked the beginning of India's legal journey in consumer protection, and it was later superseded by the more resilient and technologically advanced Consumer Protection Act of 2019. In addition to introducing progressive tools like product liability, mediation, e-commerce regulation, and harsher penalties for deceptive advertising, the current legal framework broadens the definition of "consumer." Consumer complaints, which range from unfair trade practices to data privacy breaches and digital fraud, are still common despite these advancements. This ongoing discrepancy between the law and practice suggests that creating more successful legal interventions requires a thorough understanding of consumer psychology. Consumer behavior frequently differs from the rational economic actor model presumed in traditional legal frameworks due to factors like motivation, perception, cultural background, and cognitive biases. According to theories like Maslow's Hierarchy of Needs and the Engel-Kollat-Blackwell Model, consumers don't always act in their best interests,

particularly when they're subjected to cognitive overload, limited information, or marketing manipulation. The necessity of a behavioral approach to consumer protection law—one that acknowledges human limitations and actively seeks to lessen systemic disadvantages—is highlighted by this dissonance. The purpose of this essay is to critically examine how behavioral science and consumer law interact. This study will examine the effectiveness of existing legal provisions and suggest a behavioral law reform agenda using secondary sources such as legal texts, court rulings, scholarly literature, and international statutes. The development of consumer protection in India, the use of behavioral models in a legal setting, the regulatory function of organizations such as the Central Consumer Protection Authority, and a comparison with laws in the United Kingdom and the United States are among the subtopics that will be covered. This study makes the case for a multidisciplinary legal framework that not only protects but also empowers consumers in a world that is becoming more and more influenced by digital transactions and persuasive marketing.

NEED & SIGNIFICANCE OF THE STUDY

In an era of rapidly evolving markets, the traditional approach to consumer protection—based solely on legal enforcement—is no longer sufficient. With the advent of digital commerce, complex marketing strategies, and data-driven consumer profiling, the vulnerability of consumers has increased manifold. While laws such as the *Consumer Protection Act, 2019* provide a robust framework for redressal and regulation, they often presume that consumers are rational decision-makers who act in their best interests. However, behavioural studies consistently show that consumer decisions are influenced by cognitive biases, emotional triggers, peer pressure, and limited information processing. This creates a critical gap between legal expectations and real-world consumer behaviour. The significance of this study lies in its interdisciplinary approach, combining legal analysis with behavioural theories to assess the effectiveness of consumer protection mechanisms. By understanding how consumers actually behave—rather than how they are expected to behave—policymakers can design more nuanced and effective laws that not only penalize unfair practices but also proactively guide consumer choices in a fair and informed direction. This study also aims to provide comparative insights by examining international practices, particularly in the United States and the United Kingdom, which have adopted behaviourally informed consumer policies. Furthermore, with the increasing dominance of e-commerce and digital platforms in India, understanding this

intersection becomes crucial for developing future-ready legal strategies. Thus, the study contributes to academic discourse and provides practical recommendations for making consumer protection laws more responsive, inclusive, and aligned with behavioural realities.

OBJECTIVES

The present study has the following objectives:

1. To examine the evolution and current framework of consumer protection laws in India
2. To analyse key consumer behaviour theories
3. To evaluate the extent to which existing consumer laws align with behavioural insights, and identify gaps where legal presumptions about rational behaviour fall short.
4. To conduct a comparative study of consumer protection mechanisms in jurisdictions such as the United States and the United Kingdom, highlighting behaviourally informed legal approaches.
5. To recommend legal and policy reforms that integrate behavioural science into consumer protection.

METHODOLOGY

This study adopts a doctrinal and analytical methodology, relying on secondary sources including statutes, case law, scholarly articles, and comparative legal frameworks to explore consumer protection and behavioural theories.

FINDINGS

The following is a discussion of the study's findings in accordance with its objectives:

1. To know the evolution and current framework of consumer protection laws in India
2. To know key consumer behaviour theories
3. To know the extent to which existing consumer laws align with behavioural insights, and identify gaps where legal presumptions about rational behaviour fall short.
4. To know a comparative study of consumer protection mechanisms in jurisdictions such as the United States and the United Kingdom, highlighting behaviourally informed legal approaches.
5. To know legal and policy reforms that integrate behavioural science into consumer protection.

THE EMERGENCE AND PRESENT STRUCTURE OF INDIA'S CONSUMER PROTECTION LEGISLATION IN INDIA.

Consumer protection as a legal concept in India developed in response to the challenges posed by industrialisation, economic growth, and increasing instances of consumer exploitation. Initially, consumer interests were addressed through general laws like the Indian Contract Act, 1872, the Sale of Goods Act, 1930, and the Indian Penal Code, 1860, which lacked targeted provisions for unfair trade practices or deficient services. Influenced by the global consumer rights movement—particularly U.S. President John F. Kennedy’s 1962 declaration of basic consumer rights—India enacted the Consumer Protection Act, 1986. This ground breaking law institutionalised consumer rights and introduced a three-tier redressal mechanism, allowing consumers to seek justice without costly or prolonged litigation. However, as technology and commerce evolved, the 1986 Act struggled to address emerging issues such as e-commerce fraud and misleading digital advertisements. To address these gaps, the Consumer Protection Act, 2019 was enacted, coming into force on 20th July 2020. It retained the core principles of the original law while introducing modern provisions tailored to the complexities of the digital economy, representing a significant advancement in India's consumer protection framework.

The Consumer Protection Act, 2019 represents a robust and comprehensive framework for ensuring consumer welfare in contemporary India. It broadens the definition of a “consumer” to include online and teleshopping transactions, thus covering all modern forms of commerce.

The Consumer Protection Act, 2019 represents a significant shift in India’s consumer rights framework, emphasizing six fundamental rights: protection, information, access, being heard, redressal, and education. A major reform under the Act is the establishment of the Central Consumer Protection Authority (CCPA), which proactively regulates unfair trade practices, enforces product recalls, and initiates class actions. Strengthening the existing three-tier grievance redressal system—District, State, and National Commissions—the Act expands their financial jurisdiction and introduces digital filing for greater accessibility. It also incorporates product liability, holding manufacturers, sellers, and service providers accountable for defective goods and deficient services. The Act penalizes misleading advertisements, even making celebrity endorsers liable, and promotes mediation to expedite dispute resolution. Furthermore, it addresses the growing digital marketplace by mandating transparency in e-commerce, such as displaying seller details and refund policies. Overall, the Act marks a move from a reactive to a proactive, technology-driven approach, aiming to

ensure a fair, transparent, and consumer-friendly market environment.

THE MAJOR THEORIES OF CONSUMER BEHAVIOR

1. Economic Theory of Consumer Behaviour

The Economic Theory of Consumer Behaviour is one of the earliest models explaining how individuals make purchasing decisions¹. Rooted in classical economics, this theory assumes that consumers are rational actors who aim to maximize utility (satisfaction) based on their preferences, needs, and budget constraints². Although the economic theory laid the groundwork for understanding consumer demand, modern legal frameworks must go beyond rationality assumptions to ensure fairness and consumer welfare, especially in the context of information asymmetry, digital manipulation, and psychological exploitation.³

The foundation of this theory lies in principles such as:

- **Law of Diminishing Marginal Utility:** As consumption of a good increases, the additional satisfaction derived from consuming each additional unit declines.
- **Utility Maximization:** Consumers choose combinations of goods that offer the highest total satisfaction within their income limits.
- **Rational Choice:** Given complete information, consumers weigh costs and benefits to make logical purchasing decisions.

However, this model rests on certain idealistic assumptions:

- Perfect information is available to all consumers.
- Consumers have stable and consistent preferences.
- There is no influence of psychological or social factors.
- Choices are always made with long-term benefit in mind.

¹ Paul A. Samuelson & William D. Nordhaus, *Economics* 34–40 (19th ed. 2009).

² George A. Akerlof, *The Market for 'Lemons': Quality Uncertainty and the Market Mechanism*, 84 Q. J. Econ. 488, 490–92 (1970).

³ Cass R. Sunstein & Richard H. Thaler, *Nudge: Improving Decisions About Health, Wealth, and Happiness* 6–8 (2008).

Criticism And Legal Relevance

While this theory offers a simplified and structured understanding of consumption, it overlooks the complexity of human psychology. In reality, consumers often make irrational, impulsive, or emotionally driven decisions, influenced by advertising, peer pressure, and brand loyalty. From a legal standpoint, relying solely on this model could justify minimal intervention in markets. However, real-world practices such as deceptive advertising, bait-and-switch marketing, and exploitative data collection highlight the need for consumer protection laws that acknowledge behavioural limitations.

Example

A rational consumer would compare prices and quality across brands before buying a phone. But in reality, many opt for high-priced models due to brand image or peer influence, despite no significant performance difference.

2. Psychological Theory of Consumer Behaviour

The Psychological Theory of Consumer Behaviour focuses on the internal mental and emotional processes that shape how consumers make decisions. Unlike the Economic Theory, which assumes purely rational behaviour, this theory acknowledges that human motivations, perceptions, attitudes, and learning significantly influence buying patterns⁴. The psychological theory enriches our understanding of consumer behaviour and supports the development of consumer protection laws aimed at safeguarding against emotional exploitation and ensuring informed decision-making⁵. This theory recognizes that emotions, subconscious motives, and cognitive biases often override logical analysis. For example, a consumer might buy a product not because it offers the best value but because it triggers positive feelings or status aspirations.⁶

Key components of this theory include:

- Maslow's Hierarchy of Needs: Consumers are motivated by a hierarchy ranging from basic physiological needs to safety, social belonging, esteem, and ultimately self-actualization.

⁴ Philip Kotler & Gary Armstrong, *Principles of Marketing* 192–200 (17th ed. 2017)

⁵ Robert Cialdini, *Influence: The Psychology of Persuasion* 23–38 (2006).

⁶ Daniel Kahneman, *Thinking, Fast and Slow* 19–25 (2011).

- Perception: How consumers interpret marketing messages, product attributes, and information shapes their preferences and choices.
- Learning and Conditioning: Past experiences with brands or products condition future behaviour, reinforcing loyalty or avoidance.
- Attitudes: Beliefs and feelings about a product or brand can predispose consumers to purchase or reject it.⁷

Criticism and Legal Relevance

Though providing a richer understanding of consumer behaviour, psychological insights can be exploited by marketers through emotional advertising or manipulation. This raises concerns about consumer vulnerability and the need for regulations such as clear labeling, advertising standards, and protection against deceptive practices.⁸

Example

An advertisement linking a perfume to romance and success appeals to emotional needs rather than rational utility, influencing consumer choices beyond product features.⁹

3. Psychoanalytic Theory Of Consumer Behaviour

The Psychoanalytic Theory applies Sigmund Freud's concepts of the unconscious mind to explain consumer behaviour. It posits that purchasing decisions are often driven by unconscious desires, fears, and conflicts within the individual psyche¹⁰. In consumer behaviour, this dynamic means that purchases are often symbolic, representing deeper emotional needs or social identity¹¹. Marketers tap into unconscious drives by using imagery, symbolism, and emotional appeals, transforming products into status symbols or objects of desire¹². Legal frameworks thus have a role in protecting consumers from subliminal advertising, manipulative tactics, and exploitative

⁷ Abraham H. Maslow, A Theory of Human Motivation, 50 Psychol. Rev. 370 (1943)

⁸ Federal Trade Commission Act, 15 U.S.C. §§ 41–58 (1914).

⁹ Cass R. Sunstein & Richard H. Thaler, Nudge: Improving Decisions About Health, Wealth, and Happiness 13–15 (2008).

¹⁰ Sigmund Freud, The Interpretation of Dreams 101–120 (James Strachey trans., Avon Books 1980) (1900).

¹¹ Ernest Dichter, The Strategy of Desire 10–15 (1959).

¹² Russell W. Belk, Possessions and the Extended Self, 15 J. Consumer Res. 139, 146 (1988).

emotional appeals, especially targeting vulnerable populations¹³. The psychoanalytic theory highlights the complexity of consumer motivation and underlines the importance of consumer protection laws to prevent psychological manipulation and promote ethical marketing.

According to Freud's model:

- The Id represents primal desires and impulses seeking immediate gratification.
- The Superego acts as a moral compass, enforcing societal norms and self-control.
- The Ego mediates between the id's desires and the superego's constraints, negotiating realistic decisions.

Criticism and Legal Relevance

While psychoanalytic theory offers valuable insights into subconscious motivations, it is difficult to empirically test and sometimes considered speculative. However, it reveals consumer susceptibility to manipulative marketing that exploits unconscious fears or desires.

Example

A luxury car commercial portraying power and dominance appeals to the id's desires for status and control, influencing consumers beyond rational assessment.

4. Sociocultural Theory of Consumer Behaviour

The Sociocultural Theory views consumer behaviour as deeply embedded in social and cultural contexts. It suggests that consumers make purchasing decisions influenced by social groups, cultural values, family, and peer pressures. The theory acknowledges that consumption is not merely individual utility maximization but also a social act communicating messages about identity and belonging. Understanding sociocultural influences is essential to designing consumer protection laws that respect cultural diversity and prevent manipulative social marketing practices.

Key aspects include:

¹³ Federal Trade Commission, Enforcement Policy Statement on Deceptively Formatted Advertisements (Dec. 22, 2015).

- Culture: Sets shared norms, values, and traditions that define what is acceptable or desirable.
- Social Class and Status: Consumers often use products to express identity, prestige, or group membership.
- Family Influence: Family roles and dynamics affect buying choices, such as parental authority or joint decision-making.
- Peer Pressure: Especially among youth, conformity to social groups shapes consumption patterns.

Criticism and Legal Relevance

The sociocultural perspective requires consumer protection to address issues like stereotyping, exploitation of social insecurities, and undue influence by marketers. Policies should also consider cultural sensitivities and the diversity of consumer groups.

Example

In certain cultures, purchasing branded clothing signals social status, making consumers susceptible to peer pressure and conspicuous consumption.

5. Engel-Kollat-Blackwell (Ekb) Model of Consumer Decision-Making

The Engel-Kollat-Blackwell Model offers a detailed process framework explaining how consumers arrive at purchasing decisions. It breaks down the decision-making journey into five stages. This model integrates cognitive and emotional factors and recognizes the influence of external variables like social environment and marketing stimuli¹⁴. The EKB model provides practical insights for consumer education and protection policies to ensure consumers are supported throughout their purchasing journey.¹⁵

- Problem Recognition: The consumer identifies a need or problem requiring a solution.

¹⁴ Peter J. Paul & Jerry C. Olson, *Consumer Behavior & Marketing Strategy* 178–180 (9th ed. 2008).

¹⁵ James F. Engel, David T. Kollat & Roger D. Blackwell, *Consumer Behavior* 88–112 (2d ed. 1973).

- **Information Search:** The consumer seeks relevant information internally (memory) and externally (advertisements, reviews).
- **Evaluation of Alternatives:** Different products or brands are compared based on attributes like price, quality, and features.
- **Purchase Decision:** The consumer selects and buys the preferred option.
- **Post-Purchase Behaviour:** After buying, the consumer evaluates satisfaction, which influences future buying decisions.¹⁶

Criticism and Legal Relevance

While comprehensive, consumers do not always follow this linear process; decisions may be impulsive or repetitive. From a protection standpoint, the model underscores the importance of transparency, access to accurate information, and mechanisms for complaint and redress after purchase.

Example

A buyer researching a laptop evaluates specifications, compares prices, makes a purchase, and later decides if the choice met expectations.

ANALYZE HOW WELL CURRENT CONSUMER LAWS REFLECT BEHAVIORAL INSIGHTS AND PINPOINT ANY AREAS WHERE THE LEGAL PRESUMPTIONS REGARDING REASONABLE BEHAVIOR ARE INADEQUATE

Consumer protection laws have traditionally relied on the assumption that consumers are rational decision-makers. However, behavioural economics shows that choices are often shaped by cognitive biases and emotional factors. This paper aims to critically evaluate how well current consumer laws reflect these behavioural insights and to highlight gaps where traditional assumptions fail to adequately protect consumers.

THE TRADITIONAL LEGAL FRAMEWORK BASED ON RATIONAL CONSUMER ASSUMPTION

¹⁶ A. F. Longman, Consumer Education and Protection: Implications of the EKB Model, 27 J. Consumer Aff. 215, 219–22 (1993).

Consumer law frameworks traditionally rest on the belief that consumers act rationally.¹⁷ This includes the Rational Choice Theory in law, which assumes that when given complete and relevant information, consumers will make logical and beneficial choices.¹⁸ This concept underpins the freedom of contract and the caveat emptor principle, where the burden is on the consumer to assess the value and risk of purchases¹⁹. In this model, laws primarily aim to ensure transparency through mandatory information disclosures, assuming that informed consumers can protect themselves from harm.²⁰ The legal frameworks also reflect this belief through their emphasis on consent and autonomy, particularly in digital transactions.²¹ Regulations such as the GDPR or India's IT Act rely heavily on informed consent to validate data processing, presuming the consumer's cognitive ability to understand, evaluate, and choose.²²

BEHAVIOURAL INSIGHTS CONTRADICTING RATIONALITY ASSUMPTIONS

Behavioural science challenges the assumption of consumer rationality by highlighting cognitive limitations and decision-making shortcuts. Herbert Simon's concept of bounded rationality explains that consumers often make satisfactory, not optimal, choices due to limited information and processing ability. Heuristics and biases—such as anchoring, status quo bias, and framing effects—significantly shape decisions. Hyperbolic discounting leads consumers to favour immediate rewards over long-term benefits, as seen in practices like high-interest loans or subscription traps. Additionally, social influences like peer behaviour, celebrity endorsements, and digital influencers often outweigh objective product information in shaping consumer choices.

AREAS WHERE CONSUMER LAWS HAVE INTEGRATED BEHAVIOURAL INSIGHTS

Modern consumer protection laws have gradually acknowledged and incorporated behavioural insights. One such integration is the use of default rules and opt-out mechanisms.

¹⁷ Richard A. Posner, *Economic Analysis of Law* 5–6 (9th ed. 2014)

¹⁸ Gary S. Becker, *The Economic Approach to Human Behavior* 7–8

¹⁹ Melvin Aron Eisenberg, *The Limits of Cognition and the Limits of Contract*, 47 *Stan. L. Rev.* 211, 212–14 (1995).

²⁰ Cass R. Sunstein, *Informing Consumers through Disclosure: An Empirical Perspective*, 78 *U. Chi. L. Rev.* 543, 545–47 (2011)

²¹ Ryan Calo, *Digital Market Manipulation*, 82 *Geo. Wash. L. Rev.* 995, 1003–05 (2014)

²² Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (General Data Protection Regulation), art. 7, 2016 O.J. (L 119)

For instance, automatic enrolment in pension schemes nudges consumers to save for the future, exploiting the status quo bias in a beneficial manner. Similarly, presumed consent in organ donation systems reflects this approach. Simplified disclosures are also gaining traction. Instead of lengthy and complex legal jargon, regulators encourage plain-language summaries and standardised labels—like traffic-light coding on food products—to guide healthier or safer consumer choices. Cooling-off periods and right to withdraw provisions, such as those found in the UK's Consumer Contracts Regulations or India's Consumer Protection Act, 2019, offer consumers a chance to reconsider impulsive decisions made under pressure. Further, advertising restrictions aimed at vulnerable groups—particularly children—prevent psychological manipulation. Governments and agencies are also exploring 'nudging' as a non-coercive regulatory strategy, such as designing cafeterias to display healthier food options at eye level.

GAPS IN LEGAL FRAMEWORKS BASED ON RATIONAL ASSUMPTIONS

Despite progress in consumer protection laws, key gaps persist due to limited integration of behavioural insights. Disclosures are often too complex, making consumer consent ineffective, especially in digital contexts like privacy policies. Dark patterns—manipulative design tactics exploiting cognitive biases—remain largely unregulated. The law also overlooks psychological vulnerabilities, wrongly assuming all consumers can make rational decisions once informed. Algorithmic behavioural targeting, which manipulates consumer choices, is under-regulated despite privacy-focused laws like the GDPR. Additionally, post-purchase remedies rely on consumers taking action, ignoring the barriers posed by procedural burdens and lack of awareness.

CASE STUDIES DEMONSTRATING THE BEHAVIOURAL GAP

Neglecting behavioral insights can lead to negative consequences, such as misleading advertisements, artificial scarcity on online platforms, and premium models in gaming applications²³. Consumers heavily rely on celebrity endorsements, hyperbolic discounting, and loss aversion, while existing legal tools struggle to effectively regulate these ramified environments.

²³ Oren Bar-Gill, *Seduction by Contract: Law, Economics, and Psychology in Consumer Markets* 12–18 (Oxford Univ. Press 2012).

RECOMMENDATIONS TO BRIDGE THE BEHAVIOURAL-LEGAL GAP

To improve consumer protection laws, behavioural testing, layered disclosure models, recognition of dark patterns, transparency audits, Behavioural Impact Assessments, enhanced regulatory powers, behavioural science units, public education initiatives, and tailored protections are needed²⁴. These reforms aim to improve understanding, enforce laws, and equip consumers with the knowledge to resist manipulation, while also addressing situational vulnerabilities.

TO COMPARE THE CONSUMER PROTECTION LAWS IN COUNTRIES LIKE THE US AND THE UK, EMPHASIZING THE USE OF BEHAVIOR-INFORMED LAW.

Consumer protection laws have evolved considerably in both the United States and the United Kingdom, particularly with increasing recognition of behavioural economics. While both jurisdictions aim to protect consumers, they differ in institutional frameworks, regulatory approaches, and the extent to which behavioural insights inform lawmaking.

UNITED STATES: EMPHASIS ON DISCLOSURE AND MARKET AUTONOMY

In the U.S., consumer protection is largely enforced by the Federal Trade Commission (FTC), the Consumer Financial Protection Bureau (CFPB),²⁵ and sector-specific regulators. U.S. law traditionally emphasizes autonomy, market self-regulation, and informed choice. Legal doctrines such as the "reasonable consumer standard" reflect the expectation that consumers, when given adequate information, will act rationally. However, U.S. regulators have increasingly integrated behavioural insights, particularly in financial services. The CFPB was created after the 2008 financial crisis with a mandate to address exploitative practices like hidden fees, bait-and-switch tactics, and payday loans. Behavioural evidence has informed policies requiring clearer disclosures, restrictions on pre-checked boxes, and "Know Before You Owe" mortgage disclosure forms.

Nonetheless, the U.S. approach remains largely disclosure-focused, relying heavily on market-based corrections. Critics argue this model underestimates behavioural limitations, such as

²⁴ Ryan Calo, Digital Market Manipulation, 82 Geo. Wash. L. Rev. 995, 1009–11 (2014).

²⁵ Federal Trade Commission, Protecting America's Consumers.

status quo bias, framing effects, and limited attention spans, which can impair decision-making despite transparency.

UNITED KINGDOM: PROACTIVE USE OF BEHAVIOURAL SCIENCE IN LAW

In contrast, the UK has more proactively embedded behavioural science into its consumer protection regime. The Competition and Markets Authority (CMA) and the Financial Conduct Authority (FCA) have explicitly adopted behavioural economics to shape regulation.

The UK's Behavioural Insights Team (BIT), established in 2010, works directly with regulators to “nudge” better consumer outcomes.

Examples include banning “drip pricing” in online markets (where additional costs are only revealed at checkout), default enrolment in pension schemes, and mandates against misleading pricing practices. The FCA also uses behavioural testing to evaluate whether disclosures are truly effective in guiding decisions—rather than merely present.

The UK's Consumer Protection from Unfair Trading Regulations 2008 implements the EU's Unfair Commercial Practices Directive and prohibits aggressive or misleading behaviour that exploits cognitive biases, thereby going beyond mere information disclosure.

COMPARISON AND EVALUATION

While both jurisdictions recognise the importance of consumer protection, the UK takes a more interventionist and behaviourally informed approach. The U.S. model emphasises consumer freedom and informed consent but has begun to evolve under the CFPB's behavioural initiatives. The UK, however, more fully acknowledges behavioural fallibility in law, implementing structural changes (like defaults, simplified messaging, and prohibition of misleading design) to correct market failures.

LEGAL AND POLICY REFORMS TO INTEGRATE BEHAVIOURAL SCIENCE INTO CONSUMER PROTECTION

Modern consumer markets are complex, digital, and fast-evolving, often exploiting the cognitive limitations and emotional vulnerabilities of individuals. Traditional legal frameworks, which assume rational and informed consumers, fall short in safeguarding against deceptive practices in such environments.

Therefore, incorporating behavioural science into consumer protection regimes is no longer optional—it is essential for building fair, responsive, and inclusive markets. The following legal and policy reforms are recommended to integrate behavioural insights into consumer protection effectively.

1. Reform Information Disclosure Standards

Problem: Most consumer protection laws still rely heavily on information disclosure to empower consumers. However, behavioural research shows that consumers often do not read or understand lengthy, technical disclosures.

Reform Recommendation: Adopt *layered, simplified, and tested disclosures*. Legal requirements should mandate clear, concise summaries of essential information, followed by optional detailed disclosures. Further, all mandated disclosures must be subject to behavioural testing (A/B testing, user comprehension studies) to ensure they genuinely influence consumer understanding and choices.

Example: Instead of 20-page loan agreements, consumers could first see a one-page summary highlighting interest rates, penalties, and payment timelines using visual tools like sliders or traffic-light indicators.

2. Ban And Regulate Dark Patterns

Problem: Many websites and apps use “dark patterns”—manipulative interface designs that trick users into purchases, subscriptions, or data-sharing.

Reform Recommendation: Legally define and prohibit the use of dark patterns in consumer interfaces. Regulations should require companies to follow principles of *neutral and non-deceptive design*, with regulatory audits to ensure compliance. Platforms using user manipulation (e.g., default opt-ins, countdown timers, forced continuity subscriptions) must be penalized.

International Precedent: The UK’s Competition and Markets Authority (CMA) has taken action against fake countdowns and misleading online reviews. India can model similar legal provisions in the Consumer Protection (E-Commerce) Rules.

3. Mandate Behavioural Impact Assessments (Bias)

Problem: Product and platform designs are often made without evaluating their psychological or behavioural impact on consumers, especially vulnerable groups.

Reform Recommendation: Introduce mandatory Behavioural Impact Assessments (BIAs) for high-risk consumer services like financial products, health apps, and online gaming. Like Environmental or Data Protection Impact Assessments, BIAs should evaluate how design affects decision-making, consent, and comprehension. BIAs should be reviewed by independent regulators before product launch.

4. *Strengthen Default Rules And Opt-Out Mechanisms*

Problem: Consumers often stick with default settings, even when it is not in their best interest, due to status quo bias.

Reform Recommendation: Laws should establish *beneficial default options* in contracts and services. For example, in financial services, default options could include minimal risk plans, automatic savings, or regular payment reminders. Consent mechanisms should default to the highest level of privacy or consumer control, with the option to opt in for additional features.

Example: Pension schemes in the UK automatically enrol employees, requiring them to opt out if they do not wish to participate—resulting in higher savings participation.

5. *Target Vulnerability-Specific Protections*

Problem: Vulnerable populations (e.g., elderly, low-income, low-digital-literacy consumers) are more susceptible to misleading or coercive practices, but current laws apply uniform standards to all.

Reform Recommendation: Recognise and legislate protections for *situational and structural vulnerabilities*. For example, restrict advertising of high-risk financial products to older adults, mandate human verification for large online purchases, and prohibit targeting children with gamified spending triggers.

Example: Some jurisdictions prohibit payday loan ads from being shown during children's programming or cap interest rates on short-term loans to protect low-income consumers.

6. *Establish Behavioural Science Units Within Regulatory Agencies*

Problem: Regulators often lack the behavioural expertise to design, implement, or assess policy interventions based on cognitive science.

Reform Recommendation: Set up dedicated *behavioural science units* within national consumer protection authorities. These teams can partner with academic institutions, conduct field experiments, evaluate interventions, and design evidence-based policies. Such a unit in India's Department of Consumer Affairs could lead behavioural audits, create digital toolkits for businesses, and support enforcement.

7. Promote Behavioural Literacy And Public Awareness

Problem: Consumers often remain unaware of how their behaviour is influenced by digital design, advertising techniques, and cognitive biases.

Reform Recommendation: Introduce *behavioural education* in school curriculums, financial literacy programs, and public service campaigns. Consumers should learn how to identify manipulation, understand their rights, and exercise informed judgment. Governments can collaborate with civil society to create “know your rights” behavioural awareness campaigns.

CONCLUSION

Modern consumer protection must evolve beyond traditional legal assumptions of rational decision-making. By integrating behavioural science, laws can more effectively address real-world consumer vulnerabilities, such as cognitive biases, impulsive decision-making, and digital manipulation. Comparative insights from the UK and the US show the growing relevance of behaviourally informed regulations. For India and other developing nations, adopting similar reforms—such as banning dark patterns, simplifying disclosures, and conducting behavioural impact assessments—can ensure more ethical and equitable markets. Ultimately, embedding behavioural insights in law not only protects consumers but also enhances trust, fairness, and efficiency in the marketplace.

RECOMMENDATIONS

To strengthen consumer protection through behavioural insights, it is recommended that laws mandate simplified, tested disclosures and ban manipulative design practices like dark patterns. Regulators should require Behavioural Impact Assessments for high-risk products and establish beneficial default options, especially in financial and digital services. Vulnerability-specific safeguards must be introduced for children, the elderly, and low-income consumers. Establishing behavioural science units within regulatory bodies and promoting behavioural literacy through public awareness campaigns are essential. These

reforms will align legal frameworks with actual consumer behaviour, ensuring informed choices, reducing exploitation, and fostering a more transparent and trustworthy marketplace.

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