

Trademark Licensing and Consumer Protection: Navigating Legal Challenges under the Consumer Protection Act, 2019

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Abstract

The interplay between trademark licensing and consumer protection under the Consumer Protection Act, 2019 (CPA 2019) presents practical and doctrinal challenges. This study evaluates how licensing arrangements, while enabling brand expansion, can compromise consumer rights if quality control is inadequate. The CPA 2019 emphasises transparency, accountability, and consumer welfare, creating obligations for manufacturers and product sellers and defining exposure for licensors where their control over design, labelling, advertising, or warranties is material. Using statutory analysis, case law, and regulatory guidance, we examine the risks of consumer confusion, deceptive advertising, and liability allocation in licensing relationships. Landmark Indian decisions (e.g., Hawkins Cookers; Gujarat Bottling) insist on a continuing connection between the proprietor and the goods. We also outline governance measures—contractual quality standards, audit and approval rights, recall coordination, and e-commerce oversight—and map the role of the Central Consumer Protection Authority (CCPA). By identifying gaps and proposing implementable controls, we show how licensors can integrate compliance into licensing frameworks so that brand growth does not come at the expense of consumer protection and brand equity.

Keywords: Central Consumer Protection Authority, Consumer Protection, Enforcement Mechanisms, Owners' Rights, Trademark Licensing.

Introduction

This study primarily examines licensor liability under the Consumer Protection Act, 2019; licensee obligations and consumer remediation are addressed as secondary considerations. Trademark licensing constitutes a critical component of brand management and commercial strategy, as it enables trademark proprietors to extend the reach and influence of their trademarks through third-party collaborations. In India, trademark licensing has gained significant traction, with companies leveraging it to enhance their market presence and consumer recognition. This study primarily examines the legal dimensions of licensor liability under the Consumer Protection Act (CPA) of 2019, while also considering the obligations of licensees and the rights of consumers to remediation. It investigates statutory provisions, judicial interpretations, and regulatory policies that collectively delineate the responsibilities of parties engaged in trademark licensing and their implications for consumer protection. Through doctrinal analysis and a case law review, this study aims to elucidate the extent

of liability, conditions for strict accountability, and mechanisms for ensuring quality control within licensing frameworks. By offering comprehensive insights into this dynamic interface, this study seeks to inform stakeholders of effective governance strategies that uphold consumer trust and promote sustainable brand growth within the framework of contemporary Indian law.

- Multi-party cases: Consumer forums should apportion responsibility across manufacturers, distributors, and licensors based on control and causation. Where licensors have vetted claims or packaging or run national advertising, they may be joined for misleading advertisement or unfair trade practice, even if not in the direct chain of sale.
- Contractual allocation: Licensing agreements should expressly allocate quality standards, compliance obligations, recall coordination, indemnities, and insurance, making it clear that the licensee bears manufacturer/seller duties while preserving the licensor's audit and approval rights.
- Strict accountability: CPA 2019 imposes strict product liability on manufacturers (s.84) and

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defines grounds for product sellers (s.86). they are neither manufacturers nor product sellers, but practical exposure arises wherever contracts, marketing, or approvals provide evidence of control.

- **Licensor involvement and product liability:** Under CPA 2019 (Chapter VI), liability attaches primarily to the product manufacturer or product seller; a licensor that does not manufacture can still face exposure where it exercises substantial control over design, testing, packaging, or labelling, issues independent warranties, or fails to pass on warnings—each recognized grounds to proceed against a ‘product seller.’

Clarifications on Licensor Liability under CPA 2019

Under CPA 2019, strict product liability attaches to manufacturers (s.84) and defined product sellers (s.86). A licensor who does not manufacture is not strictly liable per se; however, exposure arises where the licensor exercises material control over design, testing, packaging, labelling, advertising, or issues warranties. Consumer fora should apportion responsibility among manufacturers, distributors, and licensors based on control and causation, while licensing agreements should allocate quality standards, approvals, recalls, indemnities, and insurance.

This article primarily examines licensor liability and the allocation of responsibility under the Consumer Protection Act, 2019, with secondary attention to licensee obligations and consumer remediation. It clarifies how product liability, misleading advertisements, and unfair trade practices intersect with trademark licensing and outlines governance measures for multi-party scenarios (manufacturer–distributor–licensor).

Scope and Focus of the Study

Trademark licensing is widely used to extend brand reach through authorized third parties. In India, it presents complex issues for consumer protection under the CPA 2019, which prioritizes transparency, accountability, and consumer rights (1, 2). Businesses must align trademark strategies with consumer protection regulations to manage conflicts and synergies within this framework.

Justice H.R. Khanna asserts that "The protection of consumer rights is not only a legal duty but also a social imperative," highlighting the necessity of balancing economic interests with consumer welfare, particularly in the realm of trademark

licensing. Through various rulings, the Supreme Court of India has emphasized the significance of maintaining trademark integrity to prevent consumer fraud and ensure market fairness.

In the context of globalization, the world is experiencing continuous growth, with significant changes attributed to innovations that enhance trade and commercial activities. It is crucial to consider the implications for an individual if their idea or invention is utilized by another party who then claims full credit for it. Intellectual property rights serve as the primary mechanism for addressing this concern. The importance of intellectual property rights has increased over time. Consequently, there is an urgent need to amend existing trademark legislation to rectify certain deficiencies and unfair trading practices in the current market.

Consequently, the brand name becomes widely recognized, and the trademark is often used interchangeably with the product. For instance, Xerox has become synonymous with photocopying. Similarly, in India, various names are used to identify specific products. As a member of the World Trade Organization (WTO) that has accepted the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), India is obligated to incorporate international law and principles outlined in the intellectual property covenants into its domestic legislation. Although the previous legislation has been repealed and replaced with new legislation, India enacted an appropriate law in 1999, superseding the Trade Marks and Merchandise Act of 1958. With further amendments to the current Trade Marks Act of 1999, it aligns with TRIPS and other international legal obligations in India. The current Trade Marks Act of 1999 permits the registration of trademarks and service marks, extends the registration period, and acknowledges well-known trademarks. Additionally, the formulation of the Trade Mark Rules, 2017, facilitated digital filing, thereby enhancing the efficiency and speed of the procedure. The electronic services provided expedite the processing of applications, as all documents must be submitted and received via email, resulting in faster registration.

The Necessity of Protecting Well-Known Marks in Light of the Trade Mark Rules, 2017

Prior to the enactment of the Trade Marks Act, 1999, trademarks were safeguarded under the

Trade Mark and Merchandise Act, 1958. Even before the implementation of the Trade Marks Act in 2003, Section 47 of the Trademark and Merchandise Act permitted the defensive registration of well-known marks and allowed passing off actions against the unauthorized use of such trademarks. The protection of well-known brands remains a fundamental aspect of trademark law, essential for safeguarding the interests of both brand proprietors and consumers. The Trademark Rules, 2017, which came into force in India on March 6, 2017, significantly strengthened the legal framework for the protection of trademarks.

The primary objective of trademark law is to prevent consumer confusion. Well-known marks are particularly susceptible to exploitation by entities seeking to deceive consumers by leveraging the mark's established reputation to market unrelated or substandard products. The standards set forth in the 2017 rules include provisions designed to prevent such exploitation, protect consumers from deception, and ensure that they receive the quality they anticipate from a well-known brand. Furthermore, the rules provide clear guidelines for recognizing well-known marks. Rule 124 empowers the Registrar to declare a trademark as well-known, thereby affording it extensive protection across all categories of goods and services (3). This legal clarity enables brand owners to safeguard their rights more effectively and acts as a deterrent to potential infringements.

In an increasingly globalized market, protecting well-known trademarks is crucial for maintaining a competitive edge. Indian brands recognized as well-known marks under the Trademark Rules of 2017 benefit from enhanced protection, facilitating their entry and acceptance in international markets. This global recognition enhances brand competitiveness and promotes international trade.

Constitutionality of Rule 124

Delegated legislation, such as rules, derives its legal authority from parent statutes. In this context, the Trade Marks Rules, 2017, are predicated on the Trade Marks Act of 1999 (4). However, this Act does not empower the Central Government to establish an entirely new framework for the recognition of well-known trademarks. Furthermore, while Section 57 confers rule-making authority upon the Central

Government, the Act does not address the issue of well-known trademarks (5).

Certain distinctive provisions of the Trade Marks Act of 1999 substantially elevate the potential for the misuse of power. According to Section 11 of the Act, the Registrar is not required to impose conditions such as the trademark being used in India, being registered, having a registration application filed in India, being well-known or registered in other jurisdictions, or being widely recognized by the general public in India when determining the well-known status of a trademark (6). This raises a critical question: how can a trademark be deemed "well-known" in India if it is not widely recognized by the public. Public recognition is the essence of a "well-known" trademark.

This section, akin to all others that confer residual powers, has been interpreted liberally. Nonetheless, a residual provision must adhere to the two principal criteria for delegated legislative power. First, delegated legislation must not contravene the provisions of parent legislation. Second, as demonstrated in the *In re Delhi Laws* decision, Parliament cannot delegate an essential legislative function to the Executive (7).

Methodology

Trademarks function as indicators of origin, denoting quality and reputation. The objective of source indication may be undermined if a trademark proprietor permits another entity to utilize the trademark. Given the intellectual property nature of trademarks, the licensing process is subject to legal regulations, necessitating enhanced oversight and control. Trademarks serve as source indicators, signifying quality and reputation (8). The aim of source identification may be compromised if a trademark owner allows another entity to use the trademark. However, because of the intellectual property nature of trademarks, licensing is a legally regulated process that requires additional management and control.

Licensing broadens a trademark's geographical and product scope, thereby enhancing its success. As a strategic business tool, it facilitates the expansion of both the company's regional presence and its operations (9). It is unsurprising that licensing has become a prevalent market transaction for trademark proprietors who have

already established a substantial market presence and for those aspiring to do so. Licensing enables marketers to secure the right to utilize well-established trademarks, thereby preventing the misrepresentation of their products under similar marks and piracy or counterfeiting (10). Franchising has developed in parallel with licensing and is regarded as a business model in which a franchisor manages the use of a trademark while permitting others to employ the trade name, reputation, and branding. In early common law, trademarks were perceived solely as indicators of the physical origin of goods and services (11). Initially, trademark licensing was deemed theoretically untenable under the "source theory" of protection, which suggested that the brand was being employed by individuals not directly involved in the production process.

Theories of Trademark Licensing

- **Principle of Source Indication:** A fundamental function of trademark law is to provide distinctive identification for products and their sources. This enables the product owner to benefit from the goodwill and reputation associated with the product, thereby reducing the search costs for consumers. However, this principle complicates the process for owners, whether registered or unregistered, to license their products to third parties, as it may disrupt the source-indication process.
- **Quality Control Aspect:** This principle emerged with market expansion, where licensing became essential for market agencies. It is considered crucial, as it is believed to ensure product quality, with the primary rationale being to differentiate the owner's products from those of competitors. Furthermore, this principle does not preclude owners from modifying their quality standards in the future.

(c) **Course in Connection of Trade Principle –** Trademark licensing was prohibited in the United Kingdom until the case of *Coles Proprietary Ltd. v. Need*, due to concerns regarding public deception. Subsequently, the Goschen Committee emphasized the positive aspects of licensing, highlighting its benefits for businesses, corporate entities, and separate entities under the same parent company (12).

Additionally, the Supreme Court of India delivered a judgment in the *Dristan* case concerning trademark licensing, affirming that the connection

between the proprietor and the product is maintained through the trademark, and thereby preventing public confusion and deception (13). Furthermore, in *Gujarat Bottling Co. v. Coca Cola Co.* the court recognized that this connection permits the practice of trademark licensing regardless of registration status (14).

Trademark law is fundamentally linked to consumer protection and serves as an essential mechanism for safeguarding consumers and ensuring market stability. Trademarks enable consumers to identify and trust the origin of products, thereby ensuring their authenticity and quality. This trust is particularly crucial in combating counterfeit goods, which often breach safety standards and pose risks to consumers. By defending their trademark rights, companies can restrict the distribution of potentially hazardous products (15). Additionally, trademarks function as an assurance of consistent quality, signalling to consumers that the products they purchase comply with established safety standards.

The presence of a reputable brand logo on a product instils consumer confidence, indicating that the product has undergone all requisite safety evaluations. Moreover, trademark proprietors are held liable if their products do not comply with safety standards, thereby motivating companies to uphold rigorous safety practices to safeguard their brand reputations (16). The legal framework governing trademarks is also crucial for consumer protection, as it addresses trademark infringement, which can pose significant public health risks, particularly in instances involving counterfeit pharmaceuticals or unsafe food products that imitate trusted brands.

Consumer law and trademark jurisprudence aim to enhance consumer welfare. However, certain trademark regulations may adversely affect consumers. Economic laws, particularly those related to monopolies and competition can influence consumer protection legislation, significantly impacting consumers (17). From a consumer perspective, the current trademark system has notable deficiencies that may negatively affect consumers. Over time, a legal framework has been developed to protect consumers (18). However, challenges such as trade misconduct, counterfeit goods, and insufficient consumer education persist in the industry.

The doctrinal review identifies seven key findings regarding the intersection of trademark licensing and consumer protection in Indian law.

First, licensing aligns with the source-indicating function of a trademark only if the proprietor exercises substantial quality control over the licensee's activities. Courts acknowledge that the connection in trade can be maintained through supervision, contractual standards, and inspection rights; without such control, trademarks risk becoming deceptive and subject to challenge. This principle forms the basis of all other regulatory measures.

Second, the Consumer Protection Act (CPA) 2019 broadens the potential liability of licensors and licensees. Misleading advertisements, unfair trade practices, and product defects can prompt consumer actions and enforcement by the Central Consumer Protection Authority. In instances where a licensed product causes harm to consumers or misrepresents its attributes, both the licensee (as the manufacturer or seller) and, in certain circumstances, the licensor (as the promoter of the brand and beneficiary of the reputation) may be held accountable, contingent upon the degree of control exercised.

Third, well-known trademarks are subject to heightened expectations of stewardship. The Trade Marks Rules, 2017, provide a mechanism for the recognition of well-known marks, which, once recognized, enjoy extensive protection across classes. Licensors of well-known marks who fail to enforce quality standards or permit misleading extensions by licensees risk dilution and consumer deception, potentially necessitating corrective measures and injunctive relief to protect their marks.

Fourth, judicial approaches prioritize the prevention of consumer confusion over ownership formalities. Courts, in cases such as *Dristan* and *Gujarat Bottling*, have affirmed that public interest is protected when the proprietor ensures that goods sold under the trademark are subject to consistent quality controls and that licensing, in itself, does not sever the source link provided these controls are substantive.

Fifth, the e-commerce environment amplifies traditional risk. Marketplace listings may disconnect the licensor from the consumer experience, permit counterfeit or gray-market goods to intermingle with licensed products, and

complicate traceability. Under the Consumer Protection Act (CPA) of 2019, platform-related misrepresentations and defective products can trigger legal action. Licensors should mandate that licensees adhere to marketplace policies, maintain serialization or traceability, and engage in the takedown protocols.

Sixth, a structured compliance framework embedded within the license—encompassing quality standards, audits, advertising pre-clearance, recall coordination, data sharing, and indemnities—significantly mitigates exposure under both the trademark and consumer protection regimes. Proper documentation of supervision and remedial actions fortifies the licensor's defense that the mark continues to signify a controlled and accountable trade connection.

Seventh, registration decisions influence the evidentiary strength. Although Indian law does not require license registration, recording a registered user and maintaining approval trails enhance standing and factual narratives in disputes, particularly where the licensor must demonstrate continuous control and authorized use to counter allegations of deception or abandonment.

Results and Discussion

From a consumer-behaviour perspective, trademarks function as signals of consistent quality and reduce search costs; licensing must therefore preserve this signalling role through demonstrable quality control. Marketing scholarship and jurisprudence converge on the point that brands serve as heuristics for reliability, so lax supervision risks deception and welfare loss. Trademark licensing is a prevalent commercial strategy that enables brand proprietors to expand their market presence without ceding ownership (19). Although this arrangement yields economic advantages, it introduces legal complexities, particularly in the context of the Consumer Protection Act, 2019 (CPA 2019). The Act prioritizes consumer rights, product safety, and accurate representation, thereby imposing compliance burdens on both licensors and licensees.

Legal and Compliance Challenges Under Indian law, a trademark license does not confer ownership; rather, it grants limited rights to utilize the mark under specified conditions. Sub-licensing

is prohibited, and although the registration of a license is not obligatory, judicial bodies have emphasized its evidentiary significance in legal disputes, as demonstrated in *Himalaya Drug Co. v. Arya Aushadhi*. From a consumer protection perspective, a brand serves as an indicator of quality. If a licensee provides substandard goods or makes misleading claims, liability may extend to the licensor, particularly in cases where control mechanisms are inadequate. The Consumer Protection Act (CPA) 2019 empowers consumers to seek redress for defective products, unfair trade practices, and misleading advertisements, thereby exposing licensors to potential vicarious liability (20–24).

Quality Control and Accountability

The foundation of lawful licensing is effective quality control. Judicial precedents consistently affirm that a trademark must signify an on-going association between the proprietor and goods or services. This association is maintained through contractual obligations, audits, and oversight documentation. Failure to enforce quality standards risks brand dilution and harms consumers. In the digital marketplace, these risks are exacerbated by counterfeit goods, unauthorized sellers, and misleading online claims, which can erode consumer trust and invite regulatory scrutiny.

Governance Strategies for Compliance

A robust licensing framework should integrate legal and operational safeguards. Key measures include:

Contract Architecture: Agreements must specify technical standards, approval processes for packaging and advertising, and grant licensors audit rights. Clauses on recall protocols, indemnities, and insurance coverage are essential for managing product liability.

Advertising Oversight: Misrepresentation is actionable under both trademark and consumer laws. Licensors should mandate the pre-clearance of all promotional materials and require substantiation for performance or sustainability claims. Influencer marketing must comply with disclosure norms to avoid penalties for misleading ads.

Supply Chain Integrity: To prevent counterfeit infiltration, licensors can require serialization, tamper-evident packaging, and vendor qualification. High-risk categories should undergo

pre-compliance testing according to Indian or international standards, with certificates retained for audit.

E-Commerce Governance: Online platforms pose unique challenges. Licenses should restrict sales to authorized storefronts, enforce participation in brand registry programs, and require the prompt removal of infringing listings. Maintaining a documented monitoring schedule demonstrates the diligence of the staff.

Incident Response: A clear recall protocol, cost allocation, and indemnity provisions protect both consumers and brand reputation. Insurance for product liability and recall expenses should be made mandatory.

Practical Implications and Risk Scenarios

Several scenarios underscore these potential risks. A licensee introduces a new variant without obtaining prior approval, resulting in safety issues. The implementation of documented supervision and corrective action protocols can mitigate liability. Influencer campaigns fail to disclose the necessary information, prompting action under the CCPA. Pre-clearance systems can reduce this exposure. Counterfeit goods are found alongside licensed products. Active monitoring and takedown measures are essential to protect consumers and ensure compliance with the law.

Strategic Alignment with Consumer Protection Goals

Compliance should not be perceived as a cost but as a competitive advantage. A well-governed licensing program enhances consumer trust, facilitates market access, and strengthens the brand's equity. Ethical stewardship, such as prompt recalls, transparent communication, and fair grievance handling, reduces litigation risk and reinforces goodwill. For small and medium enterprises, the use of simplified templates, shared compliance resources, and digital monitoring tools can achieve proportional oversight without imposing excessive burdens.

Future Outlook

As brands expand into digital products and connected services, licensing agreements must address cyber security, data privacy, and software-update requirements. The convergence of trademark law and consumer protection will intensify, requiring licensors to adopt proactive

governance mind sets. Ultimately, trademark licensing under the CPA 2019 is sustainable only when legal compliance, operational discipline, and consumer-centric values converge.

This doctrinal study synthesizes statutes, case law, and regulatory materials and does not include empirical testing of consumer perceptions or a quantitative survey of enforcement outcomes. Sector-specific compliance (e.g., FSSAI/CDSCO) is illustrated only by reference to exemplars. Future work could include empirical analyses of CCPA actions and forum-apportionment trends by industry.

Conclusion

Trademark licensing under the Consumer Protection Act, 2019 is viable when licensors maintain demonstrable quality control, ensure truthful advertising, and coordinate incident response. Primary liability rests with manufacturers and product sellers, but licensors may face exposure where they exercise material control over design, labelling, testing, warranties, or advertising. Licensing agreements should therefore embed measurable standards, audit and approval rights, recall protocols, indemnities, and insurance. In digital marketplaces, traceability and proactive monitoring are essential. Aligning legal compliance with consumer-centric governance protects brand equity and consumer trust while enabling sustainable brand growth.

Limitations

This study is doctrinal and does not include empirical testing or quantitative analysis. Sector-specific compliance is illustrated through examples only.

Abbreviations

CPA 2019: Consumer Protection Act, 2019, TM: Trademark, TRIPS: Trade-Related Aspects of Intellectual Property Rights, WIPO: World Intellectual Property Organization.

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Ramanjit Kaur: Conceptualization, Legal Research, Writing Original Draft, KB Asthana: Supervision, Validation, Review and Editing.

Conflict of Interest

The authors declare no conflicts of interest.

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No generative AI or AI-assisted technologies were used in the writing or editing of this manuscript.

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