# ADVANCING CONSUMER PROTECTION THROUGH PRODUCT LIABILITY UNDER THE CONSUMER PROTECTION ACT 1999

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***ABSTRACTS:***

*This article explores critical aspects of tort law as a mechanism for consumer protection, with a focused analysis on product liability as delineated in Part X, Product Liability of Malaysia's Consumer Protection Act 1999.*

*It scrutinizes the interplay of tort law with statutory laws to safeguard consumers from the risks associated with defective products. Through an examination of the Consumer Protection Act 1999, this study highlights how the Act's provisions on product liability integrate with traditional tort principles to enhance consumer safety and ensure manufacturers' accountability.*

*The article provides key definitions such as "consumer", "producer," "product," and "damage" and investigates the criteria for establishing liability and the remedies available to consumers. By assessing the effectiveness of these legal frameworks in promoting product safety and fairness in the marketplace, the article identifies the synergies between the Act and tort law, offering insights into their collective impact on consumer protection in Malaysia.*

*This article aims to provide some insights into the role played by tort law in consumer protection, suggesting areas for legislative enhancement to better shield consumers against the hazards of defective products.*

*Keywords: consumer safety, consumer protection, product liability, tort law*

## 1.0 INTRODUCTION

The research article explores into the critical examination of product liability laws in Malaysia, as embodied in the Consumer Protection Act 1999 (hereinafter referred to as CPA 1999). This legislation represents a significant legal shift towards enhancing consumer protection by inserting a strict liability recourse for product-related damages.

Before the enactment of the Consumer Protection Act 1999 (CPA 1999), Malaysian consumers relied mainly on contractual basis and common law negligence (Tort) principles to seek redress for damages caused by defective products. However, pursuing claims under these legal frameworks often imposed a significant burden on consumers. They were required to demonstrate negligence or breach of contract, which could be challenging and costly, thereby restricting their access to justice.

Under the traditional legal system, consumers had to bear the burden of proof, as stipulated in section 101 and section 102 of the Evidence Act 1950. This meant that the individual bringing the claim had to present sufficient evidence throughout the trial to substantiate their case. Meeting this requirement could be daunting, particularly for consumers who lacked legal expertise or resources.

The enactment of the Consumer Protection Act 1999 marked a significant shift in Malaysia's legal landscape. This legislation aimed to solve the unequal bargaining power between consumers and businesses by providing enhanced protections and avenues for redress. By imposing strict liability on product manufacturers, distributors, and suppliers, the CPA 1999 alleviated the burden on consumers to prove fault or negligence.

Moreover, the CPA 1999 introduced mechanisms such as product liability claims and consumer tribunals, offering more accessible and efficient means for consumers to seek compensation for damages caused by defective products. These reforms not only empowered consumers but also fostered a fairer and more equitable legal environment for all parties involved in consumer transactions. [1].

The introduction of CPA 1999 marked a pivotal advancement in consumer rights, allowing for a more straightforward approach to claiming damages without the necessity to prove fault.[2] This change reflects a broader trend toward prioritizing consumer safety and ensuring manufacturers, distributors, and retailers are held accountable for the safety of their products. The Act outlines specific responsibilities for these entities, including obligations related to product recalls and the provision of adequate information and warnings about potential risks.[3] Moreover, the CPA 1999 sets forth a comprehensive framework for liability, covering a wide range of products and including provisions for joint and several liabilities in cases where multiple parties are responsible for a defective product.[4]

This research article aims to provide a brief outline of the CPA 1999's impact pertaining to the product liability legislation in Malaysia, examining its effectiveness in protecting consumers and its interaction with existing tort principles. It will explore challenges in the implementation of the Act, such as the determination of defectiveness, causation, and the burden of proof, etc.

## 3.0 LEGAL MATERIALS AND METHODOLOGY

The methodology used in this research article follows a qualitative research approach, which is well-suited for exploring complex legal issues and interpreting legal texts in depth. Specifically, the research focuses on the examination of statutory provisions, case law, and academic commentary pertaining to product liability under the Consumer Protection Act 1999 in Malaysia.

A brief review of legal texts is conducted to elucidate the legislative intention, focus, and/or practical aspect of the Act within the context of consumer protection. This involves scrutinizing relevant statutes, court decisions, and scholarly writings to discern patterns, trends, and gaps in the current legal framework.

By employing this methodological framework, the research aims to achieve a comprehensive understanding of the prevailing legal landscape governing product liability in Malaysia. It seeks to identify the challenges faced by consumers in seeking redress for loss and injury caused by defective products and to explore opportunities for strengthening consumer protection through enhancements to product liability law.

This qualitative approach enables a nuanced analysis of legal principles and their practical implications, allowing for a more nuanced and insightful examination of the complexities inherent in product liability cases. Ultimately, the research seeks to contribute to the academic discourse on consumer protection and provide valuable insights for policymakers, legal practitioners, and other stakeholders involved in enhancing consumer rights and safety.

## 4.0 FINDINGS & DISCUSSION

***Tort in protecting consumers:***

Tort law is founded on the doctrine of the "duty of care," which underscores the legal obligation of individuals and businesses to exercise reasonable standards of care and caution in their actions to prevent foreseeable harm to others. This duty extends throughout various aspects of commercial activities, including but not limiting to the production, distribution, and sale of goods and services. By imposing this duty, Tort law aims to ensure that businesses prioritize consumer safety and take proactive measures to mitigate risks associated with their products and services.

One of the key strengths of Tort law lies in its flexibility and adaptability to evolving circumstances and emerging risks. Unlike statutory provisions, which may require periodic amendments to address new challenges, Tort law can respond more dynamically to changing consumer needs and market dynamics. This adaptability enables Tort law to fill gaps in statutory protections and address novel forms of harm that may not be adequately covered by existing legislation.

Moreover, Tort law provides consumers with a broader scope of remedies compared to contractual remedies available under Contract law. While contractual remedies are contingent upon the terms of the contract between parties, Tort law allows consumers to seek compensation for damages resulting from negligence or wrongful acts, irrespective of any contractual relationship. This flexibility enhances consumer access to justice and ensures that individuals are not unduly restricted by contractual limitations when seeking redress for harm.[5]

Negligence is the most common tort used in consumer claims. It arises when a business breaches its duty of care, which has an unbroken causal link to harm to the consumer. For instance, if a product is defective due to negligence in manufacturing, and it causes injury to a consumer, the consumer may sue the product manufacturer for negligence.

The landmark case of *Donoghue v Stevenson* decided in 1932, stands as a pivotal moment in the evolution of consumer protection. This case not only established the "neighbour principle" but also challenged the previously held doctrine of "privity of contract." It is a utmost significant case that brought major impacts on consumer rights.

Before this landmark case, the legal principle of "privity of contract" dominated product liability claims. This doctrine restricted legal action only to parties directly involved in a contract, meaning a consumer could only sue the retailer or seller they bought the product from, not the manufacturer they had no contractual relationship with. This significantly limited the options for consumers who suffered harm from defective products, as suing the retailer often resulted in limited remedies, as the retailer might not be directly responsible for the defect.[6]

*Donoghue v Stevenson* stands as a landmark case in the realm of tort law, particularly in the new evolvement of the duty of care principle and its application to product liability. The case revolves around Mrs. Donoghue, who suffered illness after consuming ginger beer with a decomposed snail body, which she had not purchased herself but received as a gift from a friend.

The significance of *Donoghue v Stevenson* lies in its departure from the traditional "privity of contract" doctrine, which restricted legal recourse to parties who had entered into a contractual relationship. Prior to this case, consumers like Mrs. Donoghue, who had no direct contractual connection with the manufacturer or retailer, faced significant hurdles in seeking damage for harm caused by faulty products.

However, the House of Lords, in delivering its judgment, introduced a groundbreaking concept known as the "*neighbor principle*" Lord Atkin, in his influential opinion, articulated that manufacturers owe a duty of care not only to the contractual purchaser. Such duty of care applies to any foreseeable consumer “foreseeability” who might be affected by their products. This principle effectively expanded the scope of liability for manufacturers, holding them responsible for the safety of their products beyond the confines of contractual relationships.

By recognizing the broader societal implications of negligence in product manufacturing, the decision in *Donoghue v Stevenson* revolutionized the landscape of product liability law. It established a foundational principle that manufacturers have a moral and legal obligation to ensure the safety of their products for all potential consumers, regardless of their direct involvement in the purchase transaction.

Moreover, the case underscored the judiciary's role in adapting legal principles to address evolving societal needs and consumer expectations. It highlighted the importance of consumer protection and accountability in business practices, setting a precedent for future product liability cases and shaping the development of tort law doctrines worldwide.

In essence, *Donoghue v Stevenson* represents a pivotal moment in legal history, marking a significant shift towards a more expansive interpretation of duty of care in product liability cases and promoting greater fairness, transparency, and accountability in the marketplace. [7]

The *Donoghue v Stevenson* case had a profound and lasting impact on consumer protection around the world via:

a. **Expanded Scope of Claimants:** It significantly broadened the pool of potential claimants in product liability cases, allowing consumers who did not purchase the product directly to hold manufacturers accountable for their actions.

b. **Increased Manufacturer Responsibility:** It placed greater responsibility on manufacturers to ensure the safety of their products, as they could now be held liable for harm caused to anyone who could reasonably consume the product.
c. **Foundation for Product Liability Law:** This case laid the foundation for modern product liability law, paving the way for legislation and legal frameworks focused on protecting consumer safety.[8]

While beneficial, tort law also has limitations in consumer protection. For instance:

a. **Burden of Proof:** Consumers filing tort claims have the burden of proof, meaning they must demonstrate the business owed them a duty of care, breached the said duty, causation, and that the breach caused their loss and damage. This can be challenging and expensive, especially for complex cases.

b. **Defenses Available to Businesses:** Businesses can raise various defenses against tort claims, such as contributory negligence, where the consumer also bears some responsibility for the harm, or assumption of risk, where the consumer knowingly exposes themselves to potential risk.

*c.* **Limited Scope in Contractual Relationships:** Tort law principles generally do not apply in pure contractual disputes, where the consumer's remedies are limited to the terms of the contract.[9]

***Strict Product Liability in Malaysia: A Shift from Challenges to Consumer Protection:***

Recognizing the difficulties associated with both contract law and negligence law in protecting consumers, the Malaysian government introduced a strict product liability recourse mechanism under the CPA 1999. [10] This mechanism, outlined in Part X of the CPA and mimics the European Product Liability Directive, significantly enhances consumer protection by introducing the concept of strict civil liability.[11]

Unlike contract law (requiring a contractual relationship) and negligence law (requiring proof of breach of duty), strict product liability holds producers, brand owners, and importers directly liable for any loss or injury resulting to a consumer following a defective product.[12] This shifts the burden of proof from the consumer, who no longer needs to prove the manufacturer's negligence or a contractual relationship.

The primary reasoning behind this shift lies in the desire to alleviate the burdens faced by consumers in proving negligence. Even if a manufacturer exercised careful measures during production, they can still be caught and liable for any resulting harm caused by defects. Part X of the CPA establishes a strict liability applicable to death, injury, and loss of personal property arising from defective products. [13] This broadens the scope of protection offered to consumers compared to limitations inherent in contract and negligence law. [14]

In essence, strict product liability under the CPA represents a significant step forward in Malaysian consumer protection. By shifting the burden of proof and holding producers directly accountable, this regime empowers consumers and promotes safer products in the market.

Having said so, strict product liability would not discharge the burden of proof of the "Plaintiff" in civil claims. The plaintiff shall prove the following:

i. **Defect of the product**
ii. **Damage or loss caused to him/her**
iii. **Chain of causation between the defect and the damage**[15]

**<u>Defect:</u>**

Section 67(1) of the Consumer Protection Act (CPA) 1999 [16] in Malaysia plays a crucial role in defining what constitutes a defective product, which in turn forms the basis for consumer protection against unsafe products. Here's a deeper look into the implications and applications of this section:

Under Section 67(1), a product is considered defective when it does not provide the expected standard of safety to a consumer. This expectation of safety covers multiple dimensions, including:

- **Design:** The design of the product should not pose an unnecessary risk when used as intended or in a foreseeable manner.
- **Manufacturing:** Products should be free from defects that could arise during the manufacturing process.
- **Information:** Adequate instructions and warnings should be provided to mitigate risks associated with the use of the product.

The safety standards referenced are not strictly limited to local standards but can include international safety norms and industry practices, depending on the nature of the product.

By defining what makes a product defective, Section 67(1) empowers consumers, giving them legal standing to initiate claims. This means that any consumer who suffers damage due to a defective product can bring a cause of action against the producer. In the broader sense, the Consumer" isn't just the buyer; it's anyone who the product use affects.

The CPA identifies several categories under the term "**producer**":

- **Manufacturer:** The actual makers of the final product or any part of it.
- **Own Branders:** Companies that brand or label a product as their own.
- **Importers:** Entities that bring the product into Malaysia for distribution or sale.

This inclusive definition ensures that consumers have multiple potential avenues for redress, increasing the likelihood of compensation for damages incurred.

Consumers who have suffered damage due to a defective product can seek compensation for:

- **Personal Injury:** Physical harm caused by the defective product. Ie: Consumer being electrocuted by a defective electrical product
- **Property Damage:** Damage to property or other belongings. Ie: the house of the consumer was burnt down by a defective electrical product

The action initiated under this framework does not require the consumer to prove negligence, merely that the product was defective and that this defect caused harm. This significantly lowers the barrier for consumers to claim damages.

This legal framework places a significant responsibility on producers to ensure their products are safe. It acts as a strong incentive for producers to implement rigorous quality control measures and for importers to ensure that the products they bring into the country meet the required safety standards.

The approach under Section 67(1) aligns with the broader objectives of the CPA, which are to protect the consumer's health and safety and to enforce the consumer's right to information, choice, and to be heard. This statutory provision is critical in fostering a safer consumer market and holding producers accountable for the products they introduce into the consumer space.

Section 67(1) CPA 1999 defines defective products as those that do not meet the safety standards that consumers are legally entitled to expect. This identification of defectiveness provides "consumers" with the legal standing to initiate a "cause of action" against the entity defined as the "producer" within the statutory framework, thereby enabling them to seek redress and compensation for any ensuing "damage".[17]

**Defendants:**

Section 68 of the Consumer Protection Act (CPA) 1999 [18] is a pivotal component of Malaysia's consumer protection legislation, establishing a clear framework for strict liability in product liability claims. This section significantly enhances consumer safety by simplifying the process through which consumers can hold manufacturers and distributors accountable for defective products. Here is a detailed examination of the provisions and their practical implications:

Subsection (1) of Section 68 outlines three key categories of defendants who can be held liable under strict product liability:

1. **The Producer:** This category is broad and includes any entity that creates, extracts, or otherwise produces the final product. It covers manufacturers of both complete products and components, thus ensuring comprehensive accountability across different stages of production.
2. **Party Presenting as Producer:** This includes entities that place their own branding, such as trademarks or names, on products. Even if they did not manufacture the product, by presenting themselves as the producer, they assume the responsibilities associated with manufacturing defects.
3. **The Importer:** Importers who bring products into Malaysia for sale or distribution are also liable. This ensures that foreign-produced goods meet the same safety standards expected of domestically produced goods, providing a critical safety net for consumers.

**Liability Based on Product Defects:**

The liability under Section 68 is strictly based on the presence of a defect, rather than any proven negligence on the part of the manufacturer or distributor. This defect-based liability means that the plaintiff (consumer) does not need to establish that the manufacturer was at fault for the defect; the mere existence of the defect and resulting damage is sufficient to establish liability. This greatly simplifies the legal process for consumers, who might otherwise struggle to prove negligence.

Subsections (2) and (3) empower consumers by granting them the right to request and obtain information about the producers and importers of products. This is crucial in cases where the direct supplier of the product might not be the producer or importer. These provisions ensure that consumers can trace the product back to the responsible parties, which is particularly important for enforcing liability and seeking redress.

- **Subsection (2)** allows consumers to request this information directly from the supplier, who must provide it, regardless of whether they directly supplied the product.
- **Subsection (3)** obliges the supplier to respond within a reasonable time frame, ensuring that consumers are not left without recourse due to delays in obtaining necessary information.

The structure established by Section 68 reflects a strong consumer protection ethos within Malaysian law, prioritizing consumer safety and the accountability of manufacturers and distributors. It promotes elevated levels of product safety by simplifying the process for consumers to pursue claims and demand compensation for harm resulting from faulty products.

The provisions of Section 68 [18] not only facilitate a more straightforward and accessible legal process for consumers but also promote a proactive approach among producers and importers regarding quality control and compliance with safety standards. This holistic approach enhances the overall safety of products available in the Malaysian market, reinforcing consumer confidence and protection.

**<u>Damage:</u>**

As previously mentioned, Section 66 of the CPA 1999 defines "damage" in product liability claims to include "death or personal injury or any loss of or damage to property, including land as necessary. However, Section 69(1) of the CPA 1999[19] outlines certain limitations on the scope of recoverable damage:

a. **Exclusion of Defective Product**: the cost or price of the defective product itself is not recoverable
b. **Exclusion of Product Components:** This extends to the cost incurred to any component or part of the said defective product
c. **Exclusion of Certain Property:** Claims cannot extend to property that was not intended for private use, occupation, or consumption or that was not primarily intended for the claimant's personal use at the time of damage.

**<u>“Causation” Between Defect And Damage:</u>**

In claims relating to product liability, it is imperative to establish a causative nexus between the defect in the product and the ensuing harm. As elucidated in the matter of Weber v. Fidelity and Casualty Insurance Co. [20], the onus is upon the plaintiff to prove that "the product was defective, that is, unreasonably dangerous for its intended use, and that the injuries sustained by the plaintiff were directly attributable to the defect."

Consumers, particularly those with limited knowledge about the product or its workings, often face difficulties in establishing a clear causal link. *Hodges et al*. acknowledge this as a significant burden placed upon consumers [21].

The case of *Foster v Biosil* exemplifies the complexities of proving causation. The plaintiff experienced pain after the implantation of artificial breasts, allegedly due to leakage in the product. Despite suffering pain, the court ruled against the plaintiff, finding insufficient evidence to establish an unbroken chain of causation between the defect and the harm [22]

**<u>Five Defenses Under Section 72 of Part X Product Liability CPA 1999:</u>**

**1. Double-Edged Sword of Compliance Defense (Section 72(1)(a)) :**

This defense allows manufacturers to argue that the product defect stemmed from complying with existing regulations. While seemingly reasonable, it can create challenges in specific scenarios:

The case of *Pollard v Tesco Stores* [23] exemplifies potential misinterpretations. Despite a safety cap not meeting the minimum force requirement, the court ruled in favor of the manufacturer as consumers could expect a safety cap to be more difficult to open . This raises concerns about prioritizing compliance over demonstrably safer designs.

This defense mirrors similar principles found in consumer protection legislation in other jurisdictions, such as the UK's Consumer Protection Act 1987. However, it is crucial to consider the potential consequences for consumers in different regions and ensure regulations themselves do not pose safety risks. [24]

**2. "Never Supplied" Defense (Section 72(1)(b)):**

This defense allows manufacturers to argue that they never "supplied" the defective product, defined as "supplying or refilling through business, exchange, lease, rental, or hire-purchase" under the Section 3 CPA 1999. However, its interpretation raises concerns that this defense could be interpreted broadly, allowing manufacturers to escape liability for harm caused by free samples not considered "supplied." This creates a potential loophole and unequal treatment of consumers who use free samples, which can be crucial for product trial and consumer decision-making. [25]

**3. "Time Traveler" Defense (Section 72(1)(c)):**

This defense allows manufacturers to argue that the defect did not exist at the relevant time, defined as the time they supplied the product in Section 72(2)(b)(i) of CPA 1999. This can pose significant challenges for consumers: This defense shifts the burden of proof to consumers, placing the responsibility on them to demonstrate the defect existed at the time of purchase. This can be particularly difficult, especially if the defect manifests after extended use. Consumers may also need to prove the product was not misused or mishandled, further complicating their claims. [26]. This defense can disadvantage consumers by leaving them without compensation despite suffering harm due to a defect that emerged later [27] . This raises concerns about fairness and the potential difficulties consumers face in establishing their claims.

**4. "State of the Art" Defense (Section 72(1)(d)):**

This defense allows manufacturers to argue that the defect was reasonably undetectable based on the state of scientific and technical knowledge at the time the product was under their control. While seemingly reasonable, it has potential drawbacks:The case of *Olson v. Arctic Enterprises*, Inc. exemplifies potential drawbacks. The court ruled in favor of the manufacturer despite a snowmobile design flaw, citing the limitations of technology at the time. This defense could disincentivize manufacturers from investing in continuous safety improvements, potentially hindering advancements in product safety. Difficulties in Determining "State of the Art": Determining the boundaries of "scientific and technological knowledge" within the context of product development, often occurring years before the product reaches consumers, can be complex. This complexity can create challenges in applying the defense fairly and can hinder consumers seeking compensation. [28]

**5. "Defective Component" Defense (Section 72(1)(e)):**

This defense allows manufacturers to argue that the defect originated in a component of the final product and that they followed the instructions of the component's producer. While seemingly fair, it raises concerns about accountability within complex supply chains.This defense can potentially absolve manufacturers of their responsibility to conduct thorough quality checks and implement measures to mitigate potential risks associated with components sourced from external suppliers. Even if the defect originated in a component, demonstrating the manufacturer's knowledge of the defect or failure to take reasonable steps to mitigate the risk can be difficult for consumers. This creates a burden of proof that can be challenging for consumers to meet, potentially hindering their ability to seek compensation. [29]

## The Consumers' Fundamental Rights

In the context of development, terms like "basic rights" and "equal rights" are frequently used to address concerns about involvement in decision-making and access to help. [29] Everybody deserves the best practicable protection from risks that are both natural and man-made. A human rights-based strategy stands out due to its legal basis on a national, regional, and international level.

1. The right to be safeguarded from the promotion and distribution of goods that endanger human life or property is known as the **right to safety**. A fundamental principle of consumer rights is that consumers are entitled to safety and comfort when using goods or services. Therefore, if the products received prove to be hazardous, consumers have the right to seek protection and redress from the providers of these goods or services..[30] When used carefully or according to instructions, consumers expect their purchases to be secure. Every product, including the vehicles we drive and the toys our kids play with, is manufactured or seller with a guarantee of quality and safety. It is impossible to overestimate the importance of manufacturers complying to applicable standards on product safety in order to prevent product failures that may result in recalls, legal action, and consumer injuries. Examine the cases of perfect knowledge, experience goods (where customers discover the safety of a product after consuming it), and credibility goods (where consumers are unable to connect a specific product used in the past to a particular disease). The supply sector is presumed to have imperfect competition. When the safety effort is expensive, market stability is characterized by a less-than-socially ideal provision of safety in the cases of both perfect knowledge and experience products. Such as the Poison Act 1952, to restrict the use, manufacture, importation, possession, storage, and transit of poison.

2. A c**onsumer's right to choose** is their ability to obtain a range of goods and services at reasonable and competitive costs. Customers still have the right to reasonable costs for high-quality goods and services even in non-competitive markets. As Consumers don't blindly trust the promises or words of the seller regards to the products and services offered. Consumers have a right to refuse to pay the price of goods or services if the offer does not meet the standard requirement or they feel unfair treatment. The value of money should be matched with the quality of products. The theory of buyer preferences and market demand both support the close connection between product pricing and product quality. Customers generally believe that a product that is more expensive is of higher quality than one that is cheaper because they usually associate higher prices with higher quality. This connection may have an impact on consumers' decisions to buy and how much they believe they are getting for their money. For this reason, price can become a relative measure of the greatest value for money. The latter is described as the best possible balance between affordability, sustainability, and quality in order to satisfy client needs. When a superior product or service fulfills the purpose for which it was purchased or is intended to be used, consumers/customers are willing to pay for it, and vice versa. [31]

3. The right to have one's concerns and interests taken into consideration is known as the **right to be heard**. [32] If customers are dissatisfied with goods or services, they have a duty to inform companies of this. Customer service departments are typically where these complaints are lodged. Additionally, this right guarantees citizens that public servants will take their concerns and issues into account when formulating public policies. Consumers feel free to express their unhappy issue to related departments, especially lodge reports with the Ministry of Domestic Trade, Co-operatives, and Consumerism, the Communications and Multimedia Consumer Forum of Malaysia (CFM), the Malaysian Communications and Multimedia Commission (MCMC), the Tribunal Consumer Claims, and so on. [33]

4. The **right to information** states that customers must have access to comprehensive, precise, and current information on goods and services to enable them to make knowledgeable decisions. [34] Legislation mandates that companies must provide consumers with certain details about their products and services. This requirement is designed to protect consumers from misleading or fraudulent claims in marketing, labelling, or advertising efforts. Digital advertising leverages the expansive reach of the internet to connect with a broad audience through various means, allowing for customization to target specific demographic groups. Conversely, traditional advertising primarily utilizes familiar channels such as billboards,

radio, television, newspapers, and magazines, which also enable widespread audience engagement. Although a greater number of people have access to your ads, which is excellent, it can be difficult to determine whether or not the correct individuals are seeing them.As Logo, brand or company name, make careful to specify the goods and services if the company's name or emblem omits any information about components, usage guidelines, cautions about safety, and branding. Every advertisement needs to be legitimate, respectable, sincere, and truthful. Advertisements are prohibited from identifying or stereotyping any specific racial group, traditional values, or heritage. [35]

5. The **right to dispute resolution** is known as the right to redress. [36] It speaks of the freedom to pursue justice when faced with unfair treatment or exploitation. Customers are entitled to return damaged goods and file complaints for subpar assistance. In addition, they are entitled to a refund of their money, a replacement of the product or an extension of the services rendered, or repairs for the defective item. A customer has the right to look for a just outcome when they have complaints. Be in touch with the manufacturer if the company doesn't fix the issue. The Consumer Protection Act 1999 (Act 599) established the Tribunal for Consumer Claims under section 85 of Part XII. The Ministry of Domestic Trade and Cost of Living regulates the Tribunal's operations. The customer be dissatisfied with the cost or caliber of products or services, they can contact the MDTCC by calling the toll-free number (1-800-886-800). e-Aduan system: http://e-aduan.kpdn.gov.my and aadditionally, a customer can submit a claim online at https://ttpm@kpdnhep.gov.my, the e-Tribunal system. [37]

6. Having exposure to education that provides one the information and abilities necessary to make wise consumer decisions is referred to as the **right to consumer education**. [38] Customers have the right, for instance, to compare costs and quality using the information on labels. Consumer education seeks to relate consumers to acceptable behavior for a safe consumer lifestyle by guiding them in the acquisition of information and skills. A further component of consumer education is the development of individuals who can step forward to play important roles in society and further its advancement.

7. The right to pleasant and respectful treatment is known as the **right to service**. [39] Customer loyalty and service quality are positively correlated, as has been widely documented. A person's opinions about the quality of a service could change over time, thus suppliers should be especially interested in what customers think at the moment of the next decision

to repurchase rather than just after consumption. Customers are entitled to timely, non-discriminatory service. Malaysia is a diverse country composed of various ethnic groups such as Malays, Chinese, Indians, and Indigenous peoples. Each group has its unique history, culture, values, and language. It is essential for these ethnic communities to coexist harmoniously [40] By treating clients properly and equally, may the seller minimize the chance of financial mis-selling, protect the brand, lower complaint rates, and increase customer loyalty.

8. The **right to a healthy and sustainable environment** refers to the entitlement of living in a safe, healthy, and non-threatening setting that fosters the well-being of both present and future generations.. [41] Customers have a right to work and live in a pollution-free environment (air, water, land, noise, etc.). The idea of sustainable growth is put up as a way to balance the demands of development with environmental preservation, safeguarding the environment for both the present and the future. The human rights instruments that are being used to implement current international law may include the right to a healthy environment. The rights to effective remedies, knowledge, and participation are all included in the procedural side of the right to an environment that is healthy. It's must include both accessible and efficient channels for redress as well as involvement in the decision-making process. When these concepts are articulated in the context of the law on human rights, they communicate the idea that citizens have a right to take part. [42] Example the specific pollutants and the level at which they endanger the environment and public health are identified by ambient air quality regulations. Usually, criteria are established without taking into account how financially feasible they are to meet. Rather, they prioritize public welfare, which includes safeguarding against reduced visibility and harm to animals, crops, and vegetation, as well as public health, which includes the well-being of "sensitive" populations including the elderly, children, and asthmatics.

## 5.0 RECOMMENDATION

This study reveals weaknesses in Malaysia's product liability law, particularly in section 72(1)(a) to section 72(1)(d) of the CPA 1999. These weaknesses have weakened consumers' right to safety and damages, potentially preventing manufacturers from avoiding penalties. Consumer protection laws must be adaptable to emerging risks and threats to consumers. Consumer protection regulations play a pivotal role in safeguarding the rights and well-being of individuals in the marketplace. [43]

To ensure their effectiveness in an ever-evolving economic landscape, it is imperative to establish a systematic and periodic review process for these regulations. A periodic review of regulations is crucial to enhance enforcement mechanisms and identify regulatory gaps, ensuring they are updated to address new products, business practices, and technological advancements while also reflecting evolving societal values and expectations. [44]

A periodic review process allows policymakers to assess whether regulations align with current social and economic contexts, ensuring that they continue to serve the interests of consumers effectively. Consumer protection regulations may inadvertently become outdated or fail to cover emerging issues adequately. Periodic reviews provide an opportunity to identify and rectify any gaps in the regulatory framework. This process involves consulting stakeholders, including consumer advocacy groups, industry representatives, and legal experts, to gather insights and ensure comprehensive coverage.

Consumer protection laws are only as effective as their enforcement mechanisms. [45] Periodic reviews allow policymakers to evaluate the efficiency and effectiveness of existing enforcement tools. This may involve assessing penalties for non-compliance, improving investigative procedures, and streamlining cooperation between regulatory bodies and law enforcement agencies. Periodic review of consumer protection regulations is crucial for maintaining their integrity and effectiveness in a constantly evolving market. Regular assessments ensure laws remain relevant, and adaptable, and protect consumer rights while promoting economic fairness.

Consumer empowerment is crucial for a healthy marketplace, and investing in education programs can increase awareness of consumer rights and redress mechanisms, enabling informed purchasing decisions and better rights exercise. [46]

Consumer education is the bedrock upon which empowered decision-making rests. By investing in comprehensive programs, societies can equip individuals with the knowledge and skills needed to navigate the complex marketplace. These programs should cover a wide range of topics, including fundamental consumer rights, product safety, fair business practices, and the mechanisms available for seeking redress in case of grievances. Informed consumers make better decisions. Comprehensive consumer education programs provide individuals with the tools to critically evaluate products and services, understand contract terms, and compare option s effectively. [47]

When consumers are knowledgeable about their rights, they can confidently assert themselves in the marketplace, making choices that align with their preferences and values. Consumer education is instrumental in ensuring that individuals are aware of their rights in the marketplace. From the right to safety and information to the right to seek redress, a well-informed consumer base is less susceptible to deceptive practices and is more likely to hold businesses accountable for their actions. Increased awareness acts as a deterrent against unscrupulous business practices, creating a more ethical marketplace. Consumer education programs should not only focus on rights but also on the available avenues for seeking redress. By understanding how to navigate complaint procedures, access dispute resolution mechanisms, and engage with consumer protection agencies, individuals become proactive advocates for their own well-being. This empowerment contributes to a more equitable balance of power between consumers and businesses. Investing in comprehensive consumer education programs is an investment in the very foundation of a fair and just marketplace. Informed consumers are not just economic actors; they are advocates for transparency, fairness, and ethical business practices. [48]

By nurturing a well-informed consumer base, societies create a marketplace where individuals are not merely passive participants but active and empowered decision-makers, contributing to the overall health and vibrancy of the economy. [49]

Product awareness refers to the degree of consumer familiarity with a particular brand or service. A brand awareness campaign is designed to differentiate a new or revamped product from its competitors by informing the public about its features. Social media has emerged as a vital tool in promoting product awareness. For example, customers may be aware that a company manufactures shoes/sneakers, the level of product knowledge known by consumers. The capacity to expand the company through the addition of new product or service lines, a higher societal impact as a result of the value of the brand name and a higher value of activities can all result from increased brand awareness, which can also increase prices. Awareness of the specific things that a company offers particularly when compared to its rivals' offerings.

Additionally, advocating for the utilization of Alternative Dispute Resolution (ADR) methods, such as mediation or arbitration, provides a rapid and economical alternative for settling disputes outside the conventional judicial framework.[50] Alternative Dispute Resolution (ADR) Mechanisms, promoting the use of ADR mechanisms, such as mediation or arbitration, offers a viable and efficient alternative to the traditional legal system for resolving consumer disputes. ADR processes are generally more expeditious than traditional litigation. This allows consumers to resolve disputes swiftly, reducing the time and stress associated with prolonged legal proceedings.

Quick resolutions also benefit businesses by minimizing the disruption caused by protracted legal battles and maintaining positive consumer relations. ADR mechanisms are often more cost-effective than formal legal proceedings. This is particularly advantageous for consumers with limited financial resources who may be deterred from seeking redress through the traditional legal system. Businesses also benefit from reduced legal costs, promoting a more collaborative and mutually beneficial approach to dispute resolution. Investing in comprehensive consumer education programs and promoting the use of ADR mechanisms are integral steps toward empowering consumers and creating a balanced and fair marketplace. Informed consumers are not only better equipped to make sound purchasing decisions but are also more likely to assert their rights when needed. Meanwhile, ADR mechanisms provide an efficient and cost-effective means of resolving disputes, benefiting both consumers and businesses. [51]

By prioritizing consumer education and alternative dispute resolution, societies can foster a marketplace built on transparency, trust, and equitable relationships. Comprehensive product liability law is crucial for Malaysia's manufacturing industry to prioritize quality and safety, driving economic growth and ensuring consumer safety.

## 6.0 CONCLUSION AND SUGGESTION

This research article has extensively examined the intricacies of product liability under the Consumer Protection Act 1999 (CPA 1999) in Malaysia, highlighting its profound impact on enhancing consumer rights and establishing a robust legal framework for addressing issues related to defective products. The analysis underscores the pivotal shift from reliance on traditional tort and contract law towards a more consumer-centric approach, facilitated by the introduction of strict liability principles in the CPA 1999. This shift not only alleviates the burdens previously placed on consumers to prove fault but also streamlines the process for seeking redress and compensation, thereby promoting fairness and accountability in the marketplace. [52]

Through a qualitative exploration of statutory provisions, case law, and scholarly commentary, this article has identified significant synergies between tort law and the CPA 1999, each complementing the other to offer comprehensive protection to consumers. The landmark case of *Donoghue v Stevenson*, for example, serves as a foundational element in understanding the evolution of duty of care and its relevance to modern consumer protection laws in Malaysia. This case has expanded the legal responsibilities of manufacturers beyond direct purchasers, emphasizing the need for businesses to prioritize consumer safety in all aspects of production and distribution.[53]

Moreover, the strict liability regime under Part X of the CPA 1999 marks a decisive advancement in consumer law, ensuring that producers, brand owners, and importers are directly accountable for the safety of their products. This regime not only enhances consumer protection but also encourages manufacturers to adopt rigorous quality control measures to prevent liabilities.

Despite these advancements, the research has also highlighted areas where further legislative enhancements are needed to strengthen consumer protection. The complexities associated with proving defectiveness and causation, along with the limited scope of certain defenses offered to businesses under Section 72, suggest that ongoing review and refinement of the CPA 1999 are essential. [54]

In conclusion, the Consumer Protection Act 1999 has significantly shaped the landscape of consumer rights in Malaysia, providing a critical legal framework that supports the well-being of consumers while balancing the interests of businesses. Continuous evaluation and adaptation of these laws, informed by consumer needs and market dynamics, are crucial for ensuring that the legal protections keep pace with technological advancements and evolving consumer expectations.[55] This study not only contributes to the academic discourse on consumer protection but also provides actionable insights for policymakers and stakeholders committed to fostering a safe, fair, and equitable marketplace.

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