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# REDEFINING LUXURY DIGITAL FASHION: NFTS, CONSUMERISM, AND LEGAL CHALLENGES IN VIRTUAL MARKETS

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## ABSTRACT

Blockchain technology and non-fungible tokens (NFTs) have reshaped consumerism within the luxury fashion sector leading to a shift from traditional material ownership to digital consumption. Major luxury brands like Gucci, Dolce & Gabbana, and Balmain, have introduced blockchain-based digital assets which enable consumers to engage with luxury products in entirely new ways. NFTs have an essential role and function as unique digital tokens recorded on blockchain networks which offer features such as verifiable ownership, provenance tracking, and enhanced transparency. This reinforces trust in consumer-brand relationships. Despite their transformative potential, however, NFTs bring with them various legal and ethical complexities. Consumers often purchase blockchain based goods with limited understanding of their legal rights. Issues concerning authenticity, misrepresentation, intellectual property control, resale value as well as enforceability of refund and withdrawal rights in immutable blockchain environments cannot be efficiently addressed by the existing consumer protection frameworks since they are not fully equipped to perform such functions. Smart contracts automate transactions but may contain restrictive, non-negotiable terms which limit consumer remedies or fail to cover traditional rights like refund, withdrawal or replacement. Further challenges arise in cross-border exchanges wherein the decentralized nature of NFTs complicates accountability and dispute resolution mechanisms. Traditional e-commerce rules allow consumers to enjoy guarantees of quality, conformity and withdrawal rights. However, these do not seamlessly translate into blockchain based assets due to the irreversible nature of token minting. Moreover, the transparency promised by blockchain can both empower and endanger consumers offering traceability of ownership but also raising privacy concerns due to publicly accessible and permanent transactional records. This paper critically examines the role of blockchain in redefining luxury fashion consumerism by assessing how technological innovation simultaneously enhances and jeopardizes consumer rights. Through a review of leading NFT initiatives in the fashion industry, it

identifies regulatory gaps and proposes legal reforms capable of aligning consumer protection standards with blockchain's operational realities. The paper argues that the future of digital consumer protection will require a transition from solely regulatory oversight to hybrid trust models combining statutory safeguards with coded contractual guarantees embedded within smart contracts.

**Keywords:** NFTs, luxury fashion, blockchain technologies, digital assets

## INTRODUCTION

There has been a significant structural transformation, cultural, economic and technological, going on in the contemporary luxury fashion industry. Since long, luxury has been associated with tangible markets including craftsmanship, material quality and heritage.<sup>1</sup> However, the emergence of digital identities and virtual environments has introduced a new side of consumer behaviour wherein the value of a luxury good is not defined by a physical object.<sup>2</sup> The value has instead extended itself to digital spaces in which identities, self-expression and social signalling occur not just offline, but online.<sup>3</sup> It is within this shift towards traditional luxury fashion to a contemporary, digital luxury fashion that we find blockchain based assets, particularly non-fungible tokens (NFTs) since these lay at the centre of evolution of luxury consumerism.<sup>4</sup> Luxury brands have recognised the growing importance of digital cultural capital leading them to enter the NFT ecosystem to create digital collectibles, virtual garments, hybrid phygital products and exclusive membership tokens.<sup>5</sup>

Blockchain based NFTs have redefined economy of digital identities by transforming symbolic ownership into a measurable and verifiable class of assets.<sup>6</sup> Value is not only derived from material exclusivity but also from tokenized authenticity which is no longer proven through

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<sup>1</sup> Victor Kwan et.al., *Technology in Luxury Brands: Always a Bridesmaid, Never a Bride*, 37 Asia Pacific Journal of Marketing & Logistics (28 May 2025), Technology in luxury brands: always a bridesmaid, never a bride | Asia Pacific Journal of Marketing and Logistics | Emerald Publishing.

<sup>2</sup> *Id.*

<sup>3</sup> Edward Lee, *NFTs as Decentralized Intellectual Property*, 2023 University of Illinois Law Review 1049 (2023), <https://illinoislawreview.org/wp-content/uploads/2023/08/Lee.pdf>.

<sup>4</sup> *Id.*

<sup>5</sup> Yao Hao et.al., *Digital Luxury: How Avatar Marketing Drives Consumer Engagement in Virtual Fashion Ecosystems*, Asia-Pacific Journal of Marketing & Logistics (26 August 2025), <https://doi.org/10.1108/APJML-02-2025-0225>.

<sup>6</sup> Ana Mercedes López Rodríguez, *Consumer Protection in Blockchain-Based Metaverses: A Comparative Study of Cross-Border Legal Gaps and Platform Governance*, 8 Frontiers in Blockchain 1675735 (20 October 2025), Frontiers | Consumer protection in blockchain-based metaverses: a comparative study of cross-border legal gaps and platform governance.

craftsmanship but through codes.<sup>7</sup> These allow consumers to participate in immersive modes of brand engagement. Various brands such as Gucci, Dolce & Gabbana and Balmain have invested into these technologies as a part of their broader strategy to maintain position in a market shaped by techno-savvy consumers and communities based on metaverse.

For the purpose of consumer law and luxury markets, NFTs can be understood as unique digital tokens printed on a blockchain to signify ownership and entitlement. The values of these NFTs with regard to luxury brands derives from mainly three features: their ability to verify authenticity and provenance, their power to design digitally scarce assets to reflect the exclusivity of luxury fashion, and the effortless exchange of ownership in global markets through decentralised networks. These features help luxury brands to develop innovative products and build consumer experiences highlighting the uniqueness, status and identity the brand claims to represent.

However, the qualities that make NFTs attractive are often the same ones that raise consumer protection concerns. While the legal frameworks around physical luxury goods have already been set up in place, NFT transactions are governed by smart contracts which are based on an automated code that executes terms immediately and irreversibly. Therefore, blockchain based transactions once made, cannot be reversed. It also raises privacy and data concerns since data related to digital goods may at time be stored on external file storage. Licensing terms of these digital products often remain unclear which makes it difficult to deal with accountability concerns. Due to the digital nature of these transactions, sellers might work under a false name which threatens the genuineness and security of the services. Moreover, it is a frequent observation that marketplaces tend to disclaim responsibility when questions are raised about authenticity or consumer protection.

Such concerns become difficult to address since traditional consumer protection laws have been designed for tangible products in physical marketplaces and thus, do not govern intangible digital tokens traded in decentralized environments. As a result, when consumers purchase NFTs of luxury goods, they may often encounter legal and practical vulnerabilities such as

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<sup>7</sup> Ioanna Lapatoura, *NFTs, Digital Worlds and Brand Protection in Fashion: A UK/European Intellectual Property Perspective*, *International Journal of Law in Changing World* 54 (30 November 2023), [https://discovery.ucl.ac.uk/id/eprint/10181190/9/Lapatoura\\_54-Texto%20do%20Artigo-285-302-10-20231130.pdf](https://discovery.ucl.ac.uk/id/eprint/10181190/9/Lapatoura_54-Texto%20do%20Artigo-285-302-10-20231130.pdf).

misrepresentation, data insecurity, defective digital assets, unclear ownership rights, refund challenges and cross border enforcement issues.

This paper aims to critically examine how NFTs have redefined luxury consumerism and how this shift makes it necessary to establish better frameworks since the existing ones fall short of covering the scope of digital fashion markets. It explores the impact of NFTs on luxury consumption patterns, delves into the primary consumer protection risks which arise in blockchain based luxury markets, analyses the scope of existing legal frameworks and finally, proposes legal reforms that could ensure protection of consumers as they explore the technological innovations of the luxury fashion industry.

### **IMPACT OF NFTs ON LUXURY CONSUMERISM**

The introduction of NFTs into the luxury fashion industry has significantly changed consumer behaviour, brand strategies and the meaning of luxury itself. Digital consumption has become an essential form of contemporary cultural expression in a way that it represents identity and social status in platforms like social media, gaming environments, augmented reality platforms as well as metaverse spaces.<sup>8</sup> It is in these arenas that NFTs portray the prestige associated with luxury products or limited-edition accessories, only digitally. Therefore, even in online spaces individuals can access digital ownership and exhibit taste, cultural awareness and purchasing power.

NFTs in digital luxury fashion influence not only what consumers buy, but also how they understand the concept of ownership. While traditional goods provide physical ownership and symbolism, NFT based goods derive value from their immaterial nature.<sup>9</sup> When it comes to luxury fashion, these products represent exactly what luxury defines itself as: scarcity, authenticity and exclusivity.<sup>10</sup> However, it also comes with additional features such as accessibility through virtual wardrobes, customisation of digital avatars, and interaction through online communities.<sup>11</sup> It isn't mere utility that attracts consumers to participate in NFT

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<sup>8</sup> Eleanor Rockett et.al., *Fashion 4.0 and Emerging Designers: Leveraging Data and AI to Drive Creativity, Innovation and Compliance in Global Supply Chain Regulation*, 20 *Journal of Intellectual Property Law & Practice* (February 2025), <https://doi.org/10.1093/jiplp/jpae110>.

<sup>9</sup> *Technology in Luxury Brands: Always a Bridesmaid, Never a Bride*, supra note 1.

<sup>10</sup> Bethan Alexander & Niccolò Bellandi, *Limited or Limitless? Exploring the Potential of NFTs on Value Creation in Luxury Fashion*, 14 *Fashion Practice* (2022), <https://doi.org/10.1080/17569370.2022.2118969>.

<sup>11</sup> *Digital Luxury: How Avatar Marketing Drives Consumer Engagement in Virtual Fashion Ecosystems*, supra note 5.

luxury ecosystems. They also seek participation in brand narratives, access to exclusive communities, following a particular aesthetic and cultural movement, and the satisfaction derived from possession of rare digital items.

Luxury brands have levelled up on the NFT market with the goal to expand their cultural relevance and consumer engagement.<sup>12</sup> For instance, Gucci has introduced digital fashion assets, NFT artworks that are limited edition, and augmented reality experiences which allow consumers to purchase Gucci branded identity markers in digital platforms. Similarly, Dolce & Gabbana introduced its 'Collezione Genesi' which paired up couture-level physical garments into digital twins, increasing the recognition of both physical craftsmanship and digital identity. Balmain has used NFTs in form of loyalty passes and membership tokens, again highlighting how NFTs can be used to create brand communities.

Recent studies point out that the adoption of blockchain has fundamentally transformed authenticity mechanisms. Blockchain enables verification of provenance, ownership history and brand legitimacy for high value goods. This transparent feature not only enhances consumer trust but also deters counterfeiting.<sup>13</sup> Decentralised identifiers and token bound metadata also serve as anti-counterfeiting tools in fashion ecosystems, facilitating the merging of physical assets with digital technologies.<sup>14</sup>

The strategies used by these luxury brands clearly illustrate that NFTs function as tools of strategy building with regard to digital identity. They assist fashion houses in actively engaging consumers in immersive storytelling environments. Through NFTs, brands can provide behind-the-scenes content, early access to collection, interactive digital expression and identities.<sup>15</sup> When consumers are allowed a participatory ecosystem like this, they find in themselves a greater sense of belonging directly influencing the emotional connection to a particular brand and brand loyalty.<sup>16</sup>

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<sup>12</sup> *Id.*

<sup>13</sup> Vaibhav Joshi et al., *The Role of Blockchain in Enhancing Transparency and Authenticity for Luxury Goods*, 14 International Journal of Engineering Research & Technology (IJERT) 168 (11 December 2025), <https://www.ijert.org/the-role-of-blockchain-in-enhancing-transparency-and-authenticity-for-luxury-goods>.

<sup>14</sup> Luke Lee, *Examining the Legal Status of Digital Assets as Property: A Comparative Analysis of Jurisdictional Approaches*, SSRN Electronic Journal (26 April 2024), <https://arxiv.org/abs/2406.15391>.

<sup>15</sup> Xu Sheng, *The Consumer Behavior Analysis of Virtual Clothes*, 10 Telematics and Informatics Reports (June 2023), <https://doi.org/10.1016/j.teler.2023.100047>.

<sup>16</sup> Vivek Mishra and Piyush Gupta, *Drivers of Consumer Brand Advocacy in the Metaverse*, Journal of Fashion Marketing and Management: An International Journal (2025), <https://doi.org/10.1108/JFMM-04-2024-0145>.

However, as NFTs grow in the arena of luxury fashion, they directly impact the traditional commercial relationships.<sup>17</sup> When a consumer purchases an NFT based product, they are not just buying the product but also become affiliated with technological platforms based on code and digital structures. Their experiences may depend on external systems such as file hosting services, the metaverse, or proprietary brand infrastructures. Due to multiple entities involved in digital fashion assets, if something goes wrong in the process the consumer cannot call out on who bears the liability.

Surprisingly so, even with such uncertainties involved when engaging with NFTs, consumers continue to do so for the perceived benefits they guarantee. Blockchain technologies offer much better authenticity of digital assets than physical authentication fails to cover. NFTs are globally accessible which allows consumers to purchase luxury goods from any part of the world without any geographical limitations. In addition to that, NFTs can also be traded in secondary markets with ease, creating financial planning and potential investment options for buyers. Despite these advantages of the NFT ecosystem, the consumer protection in this arena continues to be underdeveloped. There are certain risks involved that a consumer purchasing a luxury NFT remains unaware of such as the inability to commercialise the product, risk of losing access to a file due to hosting problems and no legal recourse if the asset fails to meet consumer expectation.

## **CONSUMER PROTECTION CHALLENGES IN BLOCKCHAIN BASED LUXURY MARKETS**

The blend of luxury fashion and NFTs comes with both innovation and instability. Although, NFTs promise great possibilities of growth for luxury fashion brands and consumers, they are also accompanied by challenges and vulnerabilities that traditional consumer laws fail to address. Blockchain transactions happen in a decentralised, inflexible, simulated manner which differs from what the established consumer rights frameworks cover.

The first and the most pressing concern that arises out of NFT ownership is the lack of proper understanding of the same. Consumers often confuse the ownership of a luxury NFT same as the ownership of a physical product, assuming that it grants them overall rights over the asset.<sup>18</sup>

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<sup>17</sup> Woo Bin Kim and Ha Kyung Lee, *Can Unrealistic Shopping Evoke Creative Consumption in the Metaverse?*, 53 International Journal of Retail & Distribution Management (2025), Can unrealistic shopping evoke creative consumption in the metaverse? | International Journal of Retail & Distribution Management | Emerald Publishing.

<sup>18</sup> *Id.*

However, an NFT purchase only comes with a token representing a digital file and the substantive rights associated with it are affiliated to certain licenses which are usually opaque to the consumers.<sup>19</sup> These licenses deal with display, reproduction, modification and commercial use which may be restricted, meaning that even after paying high prices for purchasing a luxury NFT, consumers still hold limited rights only. Many NFT platforms fail to meet minimal ethical standards and legal disclosure standards, lacking design transparency that would allow consumers to understand the consequences of immutable data trails and terms embedded in smart contracts.<sup>20</sup>

The second concern comes in when luxury brands fail to communicate these limitations which leads to information asymmetry and misrepresentation. These are solidified due to the prevalence of unauthorised NFT collections. Counterfeiting has been a huge challenge in physical luxury fashion industry, similarly the possibility of fake NFT collections in the digital market creates new complexities. Due to the inconsistency involved in verification of digital products, it is easy for a scammer to mint digital replicas of luxury designs, label them as branded and sell them. The problem escalates when these fake NFTs if minted remain permanently recorded on the blockchain, leaving little to no way out once purchased. Prevention of such fake transactions or undoing them becomes a task due to the irreversible nature of blockchain transfers.

The third challenge is the inability to match the quality standard. Through enforcement of consumer protection laws, brands are expected to produce and sell goods which match their description and guaranteed performance. Yet, in the NFT market, a digital asset is attached to a token which may work via external storage systems or third-party platforms which may result into loss of access to purchased digital content if the hosting server goes offline or metadata becomes corrupted. The NFT continues to exist but its value as a luxury asset collapses. In these cases, it is difficult to ensure liability among the creator, market players, hosting services or the blockchain infrastructure itself.

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<sup>19</sup> Na Liu et.al., *Fashion Platform Operations in the Sharing Economy with Digital Technologies: Recent Development and Real Case Studies*, *Annals of Operations Research* 329 (October 2023), Fashion platform operations in the sharing economy with digital technologies: recent development and real case studies | *Annals of Operations Research*.

<sup>20</sup> Nexa Desk, *NFT Legal & Ethical Guide: Compliance for Creators & Platforms*, *Outlook India* (23 July 2025), <https://www.outlookindia.com/xhub/blockchain-insights/a-complete-guide-to-legal-compliance-and-ethical-responsibility-in-nft-platforms>.

Fourth concern is the irreversible nature of blockchain transactions. Consumer protection laws across various jurisdictions usually provide for cooling off periods, refunds for defective goods and remedies for fraud and misrepresentation. However, these cannot be applied to blockchain technology since the transactions cannot be reversed once made. Even if a consumer files a complaint to the respective brand and the seller agrees for a refund, the original NFT cannot be deleted or restored. This is challenging for both consumers and sellers who look up to flexible policies and high service standards.

Fifth challenge is with regard to smart contracts that delve into NFT transactions. Smart contracts work on a feature that allows them into execution automatically when the predefined conditions are met and require no human intervention. The issue arises when these terms include those which cannot be negotiated or understood by the consumers such as royalty fees, transfer restrictions or waiving off statutory rights. Most consumers remain unaware that accepting an NFT initiates a smart contract, the conditions of which cannot be reviewed or challenged. These vulnerabilities of smart contract architecture expose consumers to irreversible losses without any available remedial options.<sup>21</sup> There is a lack of legal and enforceable standards to address this issue creating uncertainty in the minds of the consumers.

Finally, the complications arising out of privacy violations. Blockchain systems record and maintain the data of all transactions permanently. Additionally, this data is publicly accessible. As a result, any activity happening on this channel be it purchases, transfers, interactions by any consumer are permanently visible to anyone who wishes to access it. This transparent feature of blockchain transactions fail to meet data protection regulations and guidelines established across many countries, raising concerns.<sup>22</sup> While luxury consumption stands for safety, privacy and discretion, its collaboration with NFT triggers extensive traceability leaving behind a risky digital footprint which the consumer might not foresee or understand.<sup>23</sup>

When collectively viewed, these challenges highlight that although the introduction of NFTs into luxury fashion has brought about a new wave of technological evolution, it has left behind

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<sup>21</sup> Victor von Wachter et.al., *NFT Wash Trading: Quantifying Suspicious Behaviour in NFT Markets*, arXiv:2202.03866 (7 February 2022), <https://arxiv.org/abs/2202.03866>.

<sup>22</sup> Andreas Strebing and Horst Treiblmaier, *Disintermediation of Consumer Services Through Blockchain: Value-Added Services, Intermediary Brands, and Consumer Privacy*, 78 *International Journal of Information Management* (2024), *Disintermediation of consumer services through blockchain? The role of intermediary brands, value-added services, and privacy concerns* - ScienceDirect.

<sup>23</sup> *Fashion Platform Operations in the Sharing Economy with Digital Technologies: Recent Development and Real Case Studies*, supra note 19.

legal safeguards. Traditional consumer protection frameworks made for tangible goods, identifiable sellers and reversible transactions stand misaligned with NFT based, decentralised and permanent transactions.<sup>24</sup> Moreover, the decentralised governance models only dilute accountability towards consumers since no single entity assumes regulatory responsibility once transactions are executed.<sup>25</sup> The risks associated with these transactions will only intensify as the luxury industry proceeds to expand its digital shift unless well-suited legal reforms are set up in place.

## LEGAL FRAMEWORKS AND REGULATORY GAPS

The legal complexities around NFTs in luxury fashion are borne when there occurs a mismatch between the changes brought about by blockchain technology and the suitability of consumer protection laws around traditional, physical goods. The existing consumer frameworks have evolved around ideas that good are tangible, sellers identifiable, transactions reversible and remedies like returns, repairs and replacements are available for defective goods.<sup>26</sup> But these ideas stand challenged when NFT transactions occur. Legal frameworks around the world were not drafted with the foreseeability of a future of blockchain based assets, whether in the EU, USA, UK, Singapore or India. While they mention certain principles regarding digital purchases, they do not extend to decentralized transactions, smart contracts, immutable records or false parties.<sup>27</sup>

In the Indian jurisdiction, the regulation of NFTs is irregular and uncertain. There is no single legislation that governs NFTs or digital collectibles under Indian law.<sup>28</sup> Instead, NFT transaction fall into respective interpretation of statues like the Information Technology Act, 2000, Indian Contract Act, 1872, Consumer Protection Act, 2019 and Intellectual Property Rules. The primary challenge lies in determining whether an NFT qualifies as a digital good,

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<sup>24</sup> *NFTs as Decentralized Intellectual Property*, supra note 3.

<sup>25</sup> Belen-Saglam et.al., *A Systematic Literature Review of the Tension between the GDPR and Public Blockchain Systems*, Blockchain: Research and Applications (10 October 2022), <https://arxiv.org/abs/2210.04541>.

<sup>26</sup> Natalya Volodeva, *Blockchain in Fashion Industry: Practice, Prospects, and Challenges of NFT Technology* (May 2024), [https://www.researchgate.net/publication/381650139\\_Blockchain\\_in\\_fashion\\_industry\\_practice\\_prospects\\_and\\_challenges\\_of\\_nft\\_technology](https://www.researchgate.net/publication/381650139_Blockchain_in_fashion_industry_practice_prospects_and_challenges_of_nft_technology).

<sup>27</sup> *Id.*

<sup>28</sup> Ayusman Das, *Non-Fungible Tokens in India - Implications Buyers Must Consider*, IP and Legal Filings (29 September 2022), <https://www.ipandlegalfilings.com/non-fungible-tokens-in-india-implications-buyers-must-consider/>.

virtual assets or security as they demand different compliance and liability requirements.<sup>29</sup>

The Consumer Protection (E-Commerce) Rules, 2020 list down provisions for misrepresentation and unfair trade practices but they apply on the presumption of liability of centralized intermediaries, unlike NFTs which arises from a decentralised technology. Additionally, the Finance Bill of 2022 did introduce the term 'virtual digital assets' but it focuses only on taxation rather than consumer welfare or contract enforcement.<sup>30</sup>

The European Union has made the most advanced regulations with regard to digital transactions including the Consumer Rights Directive, the Digital Content and Digital Services Directive and the Unfair Commercial Practices Directive.<sup>31</sup> However, these are limited to digital content such as software, e-books and streaming licenses and fall short in accommodating NFTs. Unlike the replicability and non-scarce features of these digital objects, NFTs are non-replicable and unique which places them outside the existing framework of 'digital content'. In addition, the right of withdrawal that the Consumer Rights Directive offer works on the presumption that digital contracts are revocable and return and termination clauses are aligned with it. In case of NFTs, such rights are highly difficult to execute due to the irreversible nature of blockchain. NFTs tokens, therefore, fall out of the conventional purview of these legal frameworks, since the transfers are permanently recorded on the blockchain and cannot be returned. European luxury houses have advocated for a harmonized 'Digital Authenticity Regulation' to prevent brand dilution and consumer misrepresentation.<sup>32</sup>

In the United States, there is no comprehensive framework for consumer protection with respect to digital goods but the enforcement is governed across the Federal Trade Commission Act, and state regulated unfair trade practice law, contract law, intellectual property law and security regulation.<sup>33</sup> This fragmentation across various provisions creates an ambiguous environment for luxury NFTs. For instance, the Federal Trade Commission can penalise

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<sup>29</sup> *Id.*

<sup>30</sup> Vikram and Dr. Sangeeta Sharma, *An Analytical Study of the Legal Framework Governing NFTs in India*, ShodhKosh: Journal of Visual and Performing Arts 5011 (2024), [https://www.researchgate.net/publication/391431988\\_AN\\_ANALYTICAL\\_STUDY\\_OF\\_THE\\_LEGAL\\_FRAMEWORK\\_GOVERNING\\_NFTS\\_IN\\_INDIA](https://www.researchgate.net/publication/391431988_AN_ANALYTICAL_STUDY_OF_THE_LEGAL_FRAMEWORK_GOVERNING_NFTS_IN_INDIA).

<sup>31</sup> *NFTs, Digital Worlds and Brand Protection in Fashion: A UK/European Intellectual Property Perspective*, supra note 7.

<sup>32</sup> Jeffrey H. Greene & Matthew D. Witsman, *The Laws of Fashion: Landmark Luxury Cases to Watch in 2023*, Global Legal Post (2 June 2023), <https://www.globallegalpost.com/news/the-laws-of-fashion-landmark-luxury-cases-to-watch-in-2023-1489735355>.

<sup>33</sup> Marie Kulbeth, *Does the GDPR Apply in the USA?*, SixFifty (9 March 2020), <https://www.sixfifty.com/blog/gdpr-affects-united-states-companies/>.

misleading practices and advertisements of NFTs but has no framework to deal with NFT purchases. Remedies are available for breach of contract, but the applicability depends on the terms listed in smart contracts, most of which the consumers cannot understand or negotiate. Courts are then forced to interpret the traditional legal principles with the contemporary and technological practices involved in NFT transactions, which can hamper justice and create uncertainty in the minds of the consumers.

The U.S. Treasury's 2024 guidance report calls for a regulatory oversight of NFT markets due to notable fraud and consumer deception risks marking a policy gap in blockchain's consumer protection.<sup>34</sup> In the *MetaBirkins v. Hermès* Case, the court reaffirmed that digital replicas of physical luxury goods can constitute trademark infringement.<sup>35</sup>

In comparison, the United Kingdom and Commonwealth jurisdictions have much clearer guidelines under the Consumer Rights Act through the concept of 'digital content' which states that digital goods must be of satisfactory quality and fit the description provided.<sup>36</sup> However, when applied to NFTs, certain limitations appear to the surface. The quality of an NFT not only depends on its code but also on storage infrastructure, metadata and compatibility of the platform used. None of these are guaranteed by the seller. In case a luxury NFT image is lost due to breakage in the metadata link, the token remains intact but the consumer loses access to the purchased fashion asset. It is difficult to point out whether this is a loophole in the UK law or a risk particularly associated with the digital ecosystem. Also, the Act is limited to the presumption that defective digital content is replaceable or repairable which is impossible again when it comes to NFTs.

Singapore and UAE, on the other hand, have adopted frameworks which better fit the progressive age of digital assets allowing regulatory sandboxes to experiment with NFT models. However, these frameworks aim on the financial regulation than consumer protection. They overlook consumer issues such as refund rights, remedies in case of defect and

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<sup>34</sup> Chris Prentice, *U.S. Treasury Says Regulators Should Consider NFT Guidance, Given Fraud Risks*, Reuters (29 May 2024), <https://www.reuters.com/business/finance/us-treasury-says-regulators-should-consider-nft-guidance-given-fraud-risks-2024-05-29/>.

<sup>35</sup> Blake Brittain, *MetaBirkins NFT Creator, Hermès Square Off in U.S. Trademark Appeal*, Reuters (23 October 2024), <https://www.reuters.com/legal/litigation/metabirkins-nft-creator-hermes-square-off-us-trademark-appeal-2024-10-23/>.

<sup>36</sup> *NFTs, Digital Worlds and Brand Protection in Fashion: A UK/European Intellectual Property Perspective*, supra note 7.

authenticity guarantee, focusing only on anti-money laundering, license exchange and securities regulation.

Noticeably so, across all jurisdictions the challenges remain the same. First, the problem of classification. NFTs deal with goods, digital content, licenses, financial assets and collectibles at the same time. The varied focus of categories among the regulators makes it difficult to deal with every issue under the same legal lens, and apply consumer rights, warranty obligations or conformity standards consistently. Second, the complexity of jurisdictions. NFT transactions happen all over the globe and do not limit to a particular geographical area. As a result, it makes impossible to decide what jurisdiction and laws apply when a consumer faces fraud or receives a defective NFT. Third, the issue of liability. Although, marketplaces are responsible for listing, sale and transfer of NFTs, they label themselves as intermediaries of this activity with no duty when it comes to authenticity or performance. The absence of accountability creates an arena in which consumers face high risk of coming across fake or fraudulent sellers.

Considering that NFTs are accompanied by all these challenges, it is evident that traditional consumer protection laws are inadequate to regulate blockchain based luxury market.<sup>37</sup> As of now, no country has drafted a legal model that fully addresses the risks faced by consumers when purchasing luxury fashion NFTs. Therefore, the legal provisions across the jurisdictions are largely disintegrated, uncertain and unprepared for the smooth functioning of digital luxury consumption.<sup>38</sup>

## **THE WAY FORWARD: LEGAL, POLICY AND TECHNOLOGICAL SOLUTIONS**

The insufficiency of the existing frameworks makes it crucial to establish reforms that focus on proper regulations, accountability, technological safeguards and international cooperation.<sup>39</sup> Only when such reforms are set up in place can the issues associated with consumer protection in luxury NFTs can be addressed effectively. The reforms must be centred at the protection of consumers and keeping the integrity of luxury brands intact as the evolution of digital luxury

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<sup>37</sup> *NFTs as Decentralized Intellectual Property*, supra note 3.

<sup>38</sup> Simge Güner and Arzu Vuruskan, *Investigating the Use of Blockchain Technology in Fashion and Textile Industry*, 121 *Accessibility, Assistive Technology and Digital Environments* (January 2024), [https://www.researchgate.net/publication/381343750\\_Investigating\\_the\\_Use\\_of\\_Blockchain\\_Technology\\_in\\_Fashion\\_and\\_Textile\\_Industry](https://www.researchgate.net/publication/381343750_Investigating_the_Use_of_Blockchain_Technology_in_Fashion_and_Textile_Industry).

<sup>39</sup> Alanna Sadler, *Legal Uncertainty in Virtual Worlds and Digital Goods: Do the Same Laws Apply?*, 32 *University of Miami Business Law Review* (May 2024), *Legal Uncertainty in Virtual Worlds and Digital Goods: Do the Same Laws Apply?*.

market expands without affecting its innovation.

A major reform must aim at the legal classification of NFTs. It is the duty of legislatures across the globe to decode whether NFTs should be treated as digital content, digital assets, unique property interests and a new, unique category all together. Without classifying NFTs into a proper category, it is a challenging task to apply existing consumer laws or draft adequate laws with respect to warranty rights, conformity obligations, misrepresentation rules, withdrawal provisions and impose standardised disclosure obligations on the sellers consistently. Moreover, the laws should be clear enough to avoid any confusion in the minds of the consumers about whether NFT grants display rights, access rights, commercial rights or merely token ownership.

Another important reform must impose regulations on smart contracts to be consumer-centric. Consumer rights and technical safeguards must be the structural factors of NFT transactions and the same should be reflected in smart contract in form of authenticity verification, metadata integrity checks and reversibility windows to allow consumers to undo transactions within a limited period. Refund triggers should be developed that allow automatic return of value to consumers in case the promised utilities fail or assets become inaccessible.

Regulatory designs must also focus on forming ethical design safeguards directly into smart contracts. NFT platforms must implement automatic fairness algorithms to ensure transparency, auditability and reversibility.<sup>40</sup> There also emphasis on the concept of audit tokens which are programmable mechanisms to monitor and verify contract compliance in real time.<sup>41</sup> These reforms would ensure that the blockchain transactions are consumer friendly rather than the opposite.

Next in line should be accountability of the respective platform through which the transaction happens. While NFT marketplaces are responsible for facilitating these transactions and play a crucial role in building consumer expectations, they often disclaim any liability associated with ensuring authenticity, quality or frauds. In conventional luxury markets, brands and retailers

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<sup>40</sup> Eleni Tzoulia, *The U.S. “Metabirkins” Case in the Light of EU IP and Consumer Protection Law*, 3 International Journal of Law in Changing World 118 (30 November 2023), THE US “METABIRKINS” CASE IN THE LIGHT OF EU IP AND CONSUMER PROTECTION LAW | International Journal of Law in Changing World.

<sup>41</sup> Kai Ma et al., *Cybersquatting in Web3: The Case of NFT*, arXiv:2504.13573 (18 April 2025), <https://arxiv.org/abs/2504.13573>.

are subject to high standards of accurate service and reliability, unlike NFT spaces which makes it even more important to implement verification protocols for branded collections.<sup>42</sup> These must monitor fraudulent practices, provide reliable mechanisms to handle complaints and maintain durable access to digital assets through secure metadata hosts. Moreover, platform terms must be free from unfair contract terms and clauses that waive statutory rights, impose arbitration without adequate transparency or disclaim itself from essential responsibilities. The urgent need for platform accountability can be understood from examples like the DGFamilY NGT class action where misrepresentation of token utilities led to significant consumer loss.<sup>43</sup>

Due to the decentralised nature of NFTs, there is also a need for international harmonisation.<sup>44</sup> National reforms fail to be effective when establishing frameworks for NFT consumer protection which necessitates bodies like United Nations Conference on Trade and Development (UNCTAD), Organisation for Economic Cooperation and Development (OECD) and the World Economic Forum to work on the same. They can also develop cross border dispute resolution mechanisms such as blockchain arbitration systems or digital ombudsman models to adjudicate fraud or misrepresentation disputes.

If industries come together to regulate NFT transactions on their own level, it would to a great extent lessen the burden on the legislatures. Luxury brands have a reputation to focus primarily on preserving consumer trust, maintain authenticity and preventing harm to the brand image. They could form associations to look after NFT authenticity seals, digital provenance standards and fulfil transparency commitments. To level-up the industry standards and reduce problems faced by consumers which affect their trust in luxury brands, they could adopt rules for metadata storage, clarity of licenses and communication with consumers.

In traditional luxury commerce, trust is based on brand reputation, material quality and enforcement of regulations. However, in digital contexts it must focus on legal obligations,

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<sup>42</sup> Gianluca Centraco & Gabriele Santoro, *The Adoption of Non-Fungible Tokens (NFTs) in Brand-Customer Interactions: Engagement Tool or Hype?*, 42 *International Marketing Review* (2025), The adoption of non-fungible tokens (NFTs) in brand-customer interactions: engagement tool or hype? | *International Marketing Review* | Emerald Publishing.

<sup>43</sup> Marlene Salas, *NFTs in the Luxury Fashion Market Gone Amiss: Class Action Lawsuit Reaffirms Fraud Claims Against Infamous DGFamilY NFT Project*, *Entertainment Law Review* (4 November 2024), <https://entertainmentlawreview.lls.edu/nfts-in-the-luxury-fashion-market-gone-amiss-class-action-lawsuit-reaffirms-fraud-claims-against-infamous-dgfamil-y-nft-project/>.

<sup>44</sup> *Disintermediation of Consumer Services Through Blockchain: Value-Added Services, Intermediary Brands, and Consumer Privacy*, *supra* note 22.

regulation of platforms and technological design.<sup>45</sup> These reforms can build a trust model for digital luxury markets and ensure this evolution runs on the principles of fairness, transparency and consumer empowerment.

## CONCLUSION

In digital luxury spaces, NFTs have not only reimagined identity, status, and community but also allow brands to increase exclusivity, authenticity and engagement.<sup>46</sup> Moreover, consumers who participate into these NFT transactions build experiences far beyond the physical products market. Simultaneously though, this technological shift also sheds light to the underdeveloped consumer protection frameworks based on traditional markets which fail to resolve the challenges associated with blockchain technologies. This problem exists across jurisdictions, falling inconsistently when consumer purchase luxury NFTs and face risks like lack of refund mechanisms, irregularity of smart contract terms, and possibility of fraudulent parties.<sup>47</sup>

To deal with this, there is a need for clear and efficient consumer protection statutes with regard to digital assets. And these statutes must be suitable to international standards to fit in with the decentralised nature of blockchain which makes them difficult to regulate.

The evolution of digital consumer protection will depend on a shift from decentralised transparency towards symbiotic accountability.<sup>48</sup> Consumer empowerment should not be an external regulation imposed on the system but an intrinsic feature built at the protocol layer through consent modules, auditable metadata and opt out mechanisms.<sup>49</sup> For the future of luxury to evolve and coexist with technological innovation, it is essential that consumers understand and participate in this process while being offered adequate safeguards. The industry of luxury fashion is now under an obligation to facilitate a digital market which is trustable, efficient and secure to reach its best potential and thrive across the globe.

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<sup>45</sup> Fung Yi Tam, *Blockchain Technology Adoption in the Fashion Supply Chain: A Review on the Practices of Fashion Brands*, 18 Journal of Global Operations and Strategic Sourcing (6 May 2025), <https://doi.org/10.1108/JGOSS-01-2025-0003>.

<sup>46</sup> Minjung Cho & Erin Cho, *Digital Luxury in the Metaverse: How Non-fungible Tokens Shape Resistance to Negative Information and Brand Purchase Intention*, 24 Journal of Consumer Behaviour (2025), <https://doi.org/10.1002/cb.70007>.

<sup>47</sup> *Investigating the Use of Blockchain Technology in Fashion and Textile Industry*, supra note 38.

<sup>48</sup> *Consumer Protection in Blockchain-Based Metaverses: A Comparative Study of Cross-Border Legal Gaps and Platform Governance*, supra note 6.

<sup>49</sup> *NFT Legal & Ethical Guide: Compliance for Creators & Platforms*, supra note 20.