

**“Authorities,
Complaint Mechanism
And
Penalties
Under Consumer
Protection Act, 2019”
– New Developments**

A Presentation by
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BACKGROUND



Consumerism is humanism and
humanism is consumerism.

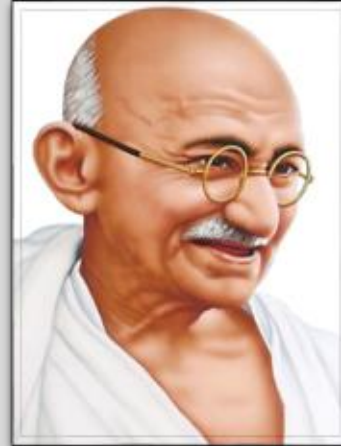
– **J. Krishna Iyer**



“ Consumer by definition include us all. They are
the largest economic group, affecting and
affected by almost every public and private
economic decision- Yet they are only important
group whose views are not often heard.”

-**John Kenedy**

BACKGROUND



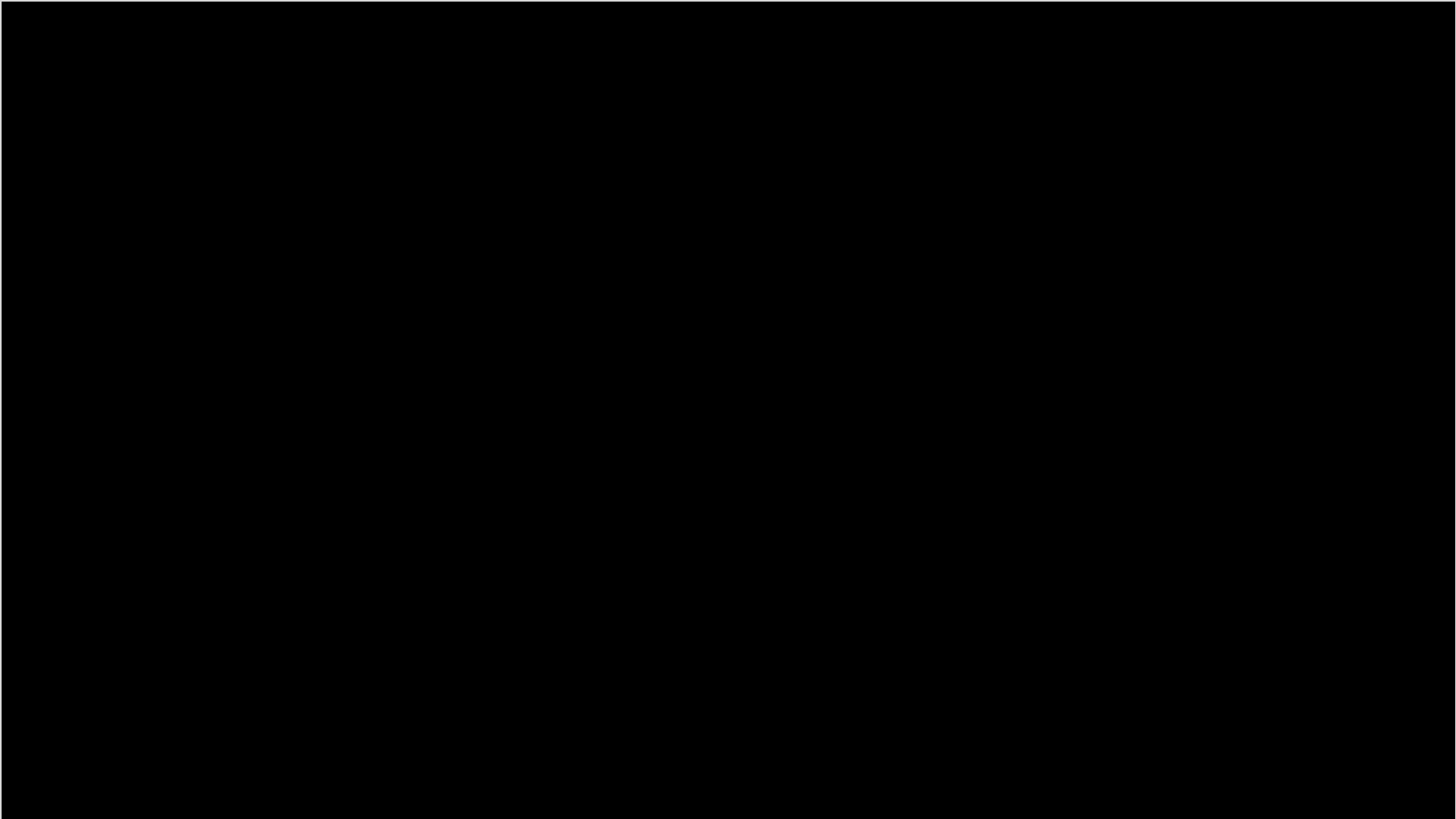
“A customer is the most important visitor on our premises. He is not dependent on us. We are dependent on him. He is not an interruption of our work. He is the purpose of it. He is not an outsider of our business. He is part of it. We are not doing him a favour by serving him. He is doing us a favour by giving us the opportunity to do so.

-Mahatma Gandhi

○ Everybody is a consumer from birth to death and from the moment you get up in the morning till you sleep.

○ Consumer Protection as a part of right to life- under Art 21 of the Constitution of India.

ORIGIN



ORIGIN

First English Case

Donoghue Vs Stevenson (1935):

- Snail in the Bottle case.
- Established Civil Law tort of negligence
- Ms. Donoghue was given a bottle of ginger beer purchased by a friend.
- Donoghue consumed most of its contains but later became aware of snail in the bottle.
- She later feel ill with gastroenteritis.
- Donoghue sued the manufacture of the beer seeking 500 pound damages.
- Basic duty of care to the consumers and responsibility for injury to negligence.
- No president
- Lord Atkinson accepted the product liability of the manufacturer.



**SHIFT FROM
CAVEAT EMPTOR (BUYER BEWARE)
TO
CAVEAT VENDITOR (SELLER BEWARE)**

COMPARISON BETWEEN CONSUMER PROTECTION ACT, 1986 AND CONSUMER PROTECTION ACT, 2019

Sr No.	Particulars	Act of 1986	Act of 2019
1	Regulator	None	Central Consumer Protection Authority
2	Jurisdiction	Opposite party OR cause of action	Where the complainant resides or works
3	Product liability	No provision	Responsibility to compensate for any harm caused.
4	Pecuniary jurisdiction	District court up to 20 lakhs State Forum – 20 lakhs to 1 Crore National Forum- above 1 Crore	District court up to 1 Crore State Forum – 1 Crore to 10 Crore National Forum- above 10 Crore
5	E-commerce	No provision	All provisions relating to direct selling extended to ecommerce

COMPARISON BETWEEN CONSUMER PROTECTION ACT, 1986 AND CONSUMER PROTECTION ACT, 2019

Sr No.	Particulars	Act of 1986	Act of 2019
6	Mediation	No provision	Provision for settlement through mediation
7	Concept of misleading advertisement, unfair contract	No provision	provisions of advertisements, unfair contract, endorsement of advertisement and miss leading advertisement introduced.
8	Appointment of President and Members	Qualification and disqualifications, recruitments, term of office and removal of the President and Members of the Commission Led down.	Central Government and State Government given powers to make rules relating to qualification, recruitment, term of office and removal of the president and members of the Commission.

COMPARISON BETWEEN CONSUMER PROTECTION ACT, 1886 AND CONSUMER PROTECTION ACT, 2019

Sr No.	Particulars	Act of 1986	Act of 2019
9	Review	No power of review	Power of review conferred
10	Enforcement order of	Attachment of property for interim orders Recovery of amount through Collector Punishment u/s 27	Orders to be enforced as if it were decree made by a Civil Court Punishment u/s 72
11	Unfair contracts	No provision for filing complaint against unfair contracts	Provision for filing complaints against unfair contract to State and National Commission.

COMPARISON BETWEEN CONSUMER PROTECTION ACT, 1886 AND CONSUMER PROTECTION ACT, 2019

Sr No.	Particulars	Act of 1986	Act of 2019
12	Offences	No other than Sec. 27	<ul style="list-style-type: none">○ Penalty for non-compliance of direction of central authority○ Punishment for false or misleading advertisement○ Punishment for manufacturing for sale or storing, selling or distributing or importing products containing adulterant○ Punishment for manufacturing for sale or for storing or selling or distributing or importing spurious goods

PROBLEM AREAS

- Criminal liability in 2019 Act relating to manufacturing/ selling/ imparting or distributing spurious goods and product with adulterated content- this provision will overlap the existence IPC provision and the Drugs and Cosmetics Act, 1940, Food Safety and Standard Act, 1940.
- Sec. 89 imprisonment for sales and misleading advertisements reliance on criminal laws to enforce consumer protection laws.
- Poor track record on enforcement -
- We in India are very good at passing Laws but very bad in implementing them.
- The present position of tremendous delay in disposal of Consumer cases is not addressed in the New Act.

PROBLEM AREAS

- The failure relating to enforcement of orders is also not sufficiently addressed. The cases given a right of civil court for recovery. However there is complete lack of infrastructure for such enforcement, lack of required training and knowledge to effectively use u/s 21 CPC for enforcement the order.
- At any rate order 21 CPC itself is a very complex chapter and even civil court orders are enforced with great difficulties and delay.
- Use of criminal law to enforce consumer protection law.
- Overlap of provisions of IPC Drugs and Cosmetics Act, Food Safety and Standards Act with Penal Provision of Consumer Protection act, 2019.
- Power to pass Interim Orders- Rarely used.

CREATION OF CENTRAL CONSUMER PROTECTION AUTHORITY

- Authority to regulate matters relating to violation of rights of consumers, unfair trade practices or false or misleading advertisements, to promote, protect and enforce the right of consumers as a class.
- Investigation wing created.
- The District Collector on a complaint or a reference made by Central Authority inquire into the complaints and submit report to the Central authority.
- Consumers can make complaints to the District Collector or the Central Authority.
- Central Authority is allowed to even take action suo moto.
- Central Authority can file complaints before the District Forum or intervene proceeding before the District Forum.
- The Central Authority can even refer the matter to regulators appointed under different laws.
- Central Authority can order recall of goods, withdrawal of services, reimbursement of prices and discontinuation of unfair practices.

CREATION OF CENTRAL CONSUMER PROTECTION AUTHORITY

- Central Authority can order discontinuation of false and misleading advertisements.
- Central Authority can impose penalty for false and misleading advertisement upto 10 Lakhs and upto 50 Lakhs for every subsequent contravention.
- Endorser not liable if they have exercised due diligence to verify the veracity of claim made in the advertisement.
- Director General and other authorized officers have power of search and seizure.
- Appeals from the orders passed by Central Authority will lie to National Commission within period of 30 days.



MISCELLANEOUS PROVISIONS

- The present Presidents and members of various for a to continue to hold office till completion of their term.
- The District Commission can perform its functions at District Head Quarters or at such other place in the District.
- Power to pass interim orders. (Though this provision existed even in the past is ignored)

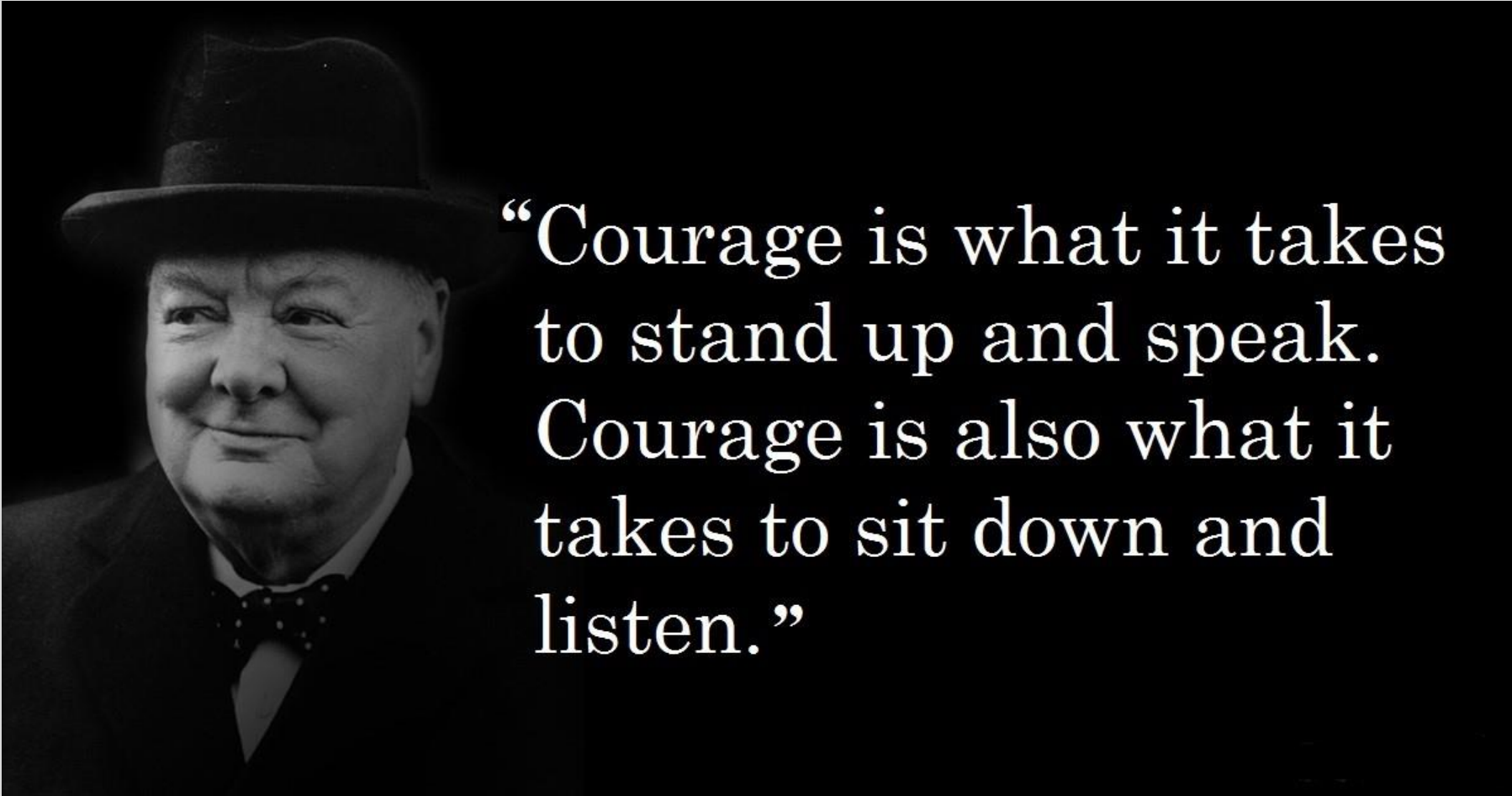


OFFENCES AND PENALTIES

- Failure to comply with a direction of Central Authority.
- Manufacturer or Service Provider causing false advertisement
- Whoever manufactures for sale or stores or distributes or imports any products containing an adulterant.
- Whoever manufactures for sale or stores or distributes or imports any spurious goods.
- Punishment for vexatious search by Director General and others.



“Winston Churchill”



“Courage is what it takes to stand up and speak. Courage is also what it takes to sit down and listen.”

A New Beginning



A New Beginning



“Thank You...”

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