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# Enforcement of Consumer Law in India during Covid-19 Crisis

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## ABSTRACT

*According to Mr. Albert Einstein, our situation on this planet is strange. Each of us plays a brief visit, oblivious to the reason but occasionally appearing to serve a divine purpose. From a daily life perspective, however, one thing is sure: We are here for the sake of other men — most especially for those whose smiles and well-being depend on our happiness, for the countless unknown souls whose fate we share through a sympathy bond. I am constantly reminded how much my outer and inner lives are built on the labours of people, living and dead, and how earnestly I must exert myself to give back what I have received and continue to receive.*

*The true way to increase my wisdom is to share it. We grow in wisdom when we share our experiences with others. According to Zig Ziglar, a well-known speaker, you can obtain anything you desire in life by assisting enough other people in obtaining their desires.*

*Keywords: Consumers, Safety, Protection.*

## I. INTRODUCTION

With the rapid evolution and globalization of the last few decades, the interdependence of international states on their mutual affairs has increased to achieve a common goal of maintaining stable economies and higher GDP values. This interdependence has made a significant contribution to establishing a universal emphasis on consumer protection and promotion.

Consumer spending, according to Keynesian theory<sup>2</sup>, is a critical driver of an economy and should be encouraged as a major policy objective. Consumerism, from an Economist's perspective, is the belief that increasing consumption of goods and services purchased on the market is always a desirable goal and that a person's well-being and happiness are

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<sup>2</sup> Keynesian economics is an economic theory of total spending in the economy and its effects on output and inflation. Keynesian economics was developed by the British economist John Maynard Keynes during the 1930s in an attempt to understand the Great Depression. Keynesian economics was used to refer to the concept that optimal economic performance could be achieved—and economic slumps prevented—by influencing aggregate demand through activist stabilization and economic intervention policies by the government.

fundamentally dependent on acquiring consumer goods and material possessions<sup>3</sup>.

While consumerism can be defined as a movement that advances the interests of consumers of goods and services in the modern era. Its primary objective is to safeguard consumers against unsafe or substandard products, deceptive advertising, labelling, and packaging, and business practises that stifle competition. It promotes adequate product information. Thus, enabling consumers to make informed purchases of goods and services.

A 'Consumer' is defined as a person who purchases goods and services and utilises public utilities and resources from nature. This term refers to those who purchase goods and services to fulfil personal desires, excluding those who purchase for manufacturing purposes or resale.

According to the Consumer Protection Act of 1986, a 'Consumer' is *"any individual who purchases goods or hires services for a consideration that has been paid or promised, or partially paid and partially promised, or under any system of deferred payment," and includes any user of such goods other than the person who purchases such goods for consideration.*

This definition does include purchases made for commercial trade utility or usage. Citizens today all across the globe understand and value the importance of the Rights conferred to Consumers and protection mechanisms conferred by law under various jurisdictions. Consumers or purchasers of a good or service today aims to achieve value satisfaction that justifies the barter cost for availing the same.

Despite the modernization and recent developments including safety mechanisms in the society, involving wide variety of options in services and goods, enhanced quality and availability within close proximity but exploitative and unethical trade practices continue to exist inevitably. These activities include price rigging, adulteration in goods, misleading promotions, stock hoarding, black marketing and inferior product quality etc. to name a few.

## II. ORIGIN OF CONSUMER PROTECTION

Sir John Fitzgerald Kennedy, the United States of America's 35th President, introduced the concept of consumer protection for the first time on 15 March 1962. He discussed this concept in detail in a special address to Congress. He emphasised the critical nature of consumer protection in his remarks.

Additionally, Kennedy discussed the four fundamental rights of consumers, including the Right to Safety, the Right to Information, the Right to Hear, and the Right to Choose. These rights result in countries strengthening and supervising adequate consumer protection, encouraging

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<sup>3</sup> Jim Chappelow, (2019): Consumerism

moral support, and regulating market trends to allow consumers to experience variety.

The United Nations General Assembly after numerous Consultations on Consumer Protection, Recalling Economic and Social Council resolution 1981/62 of 23 July 1981 resolved to the formation of Guidelines for Consumer Protection.

Whilst the Indian Culture from time Immemorial has stood up and supported the administration of common interests of the people of our society. References can be made to Ancient India until Independence: In the Ancient Era, the concept of Dharma among people was propagated and promoted, the Vedas giving origin to Manu Smriti, Narada Smriti, Code of Chanakya like codes which are considered to have been blessed by God.

These codes paid strict reliance towards making safeguard provisions for the interest of consumers with the aim of consumer safety, including punishments on culpability of acts indulging in wrong doing. In the medieval period, the regulation of Consumer Protection in India was under the dominant command of the Kingdoms who ruled over India.

There was a large Islamic influence during this period under the Kingship of Rulers like Alauddin Khilji, Sher Shah Suri and Akbar to name a few who relied upon the philosophy of the Holy Quran, the primary religious codification of Islam which indicates that the 'Use of Unjust Weights and Measures is Unacceptable' and Introduced Weights, took measures for standardization of the process.

In the Modern Era, the former practices established under the Medieval Period were soon overturned and replaced by novel legislative measures including the Introduction of English Common Law along with other pro-consumer initiatives.

The Newer Legislations included The Indian Contract Act, 1872, The Sale of Goods Act, 1930, Indian Partnership Act, 1932. The Agricultural Produce (Grading and Marketing) Act, 1937, The Drugs Act, 1940 and The Drugs and Cosmetic Act of 1940.

Post-Independence, India adopted an Anglo- Saxon system of Justice administration which involved the continuance of former legislations introduced in the Modern Era along with implementing supplementary provisions that included inferences from The Constitution of India under Article 14, 39 and 43 along with legislations including The Drugs Control Act of 1950, The Industries (Development and Regulations) Act of 1951, The Drugs and Magic Remedies (Objectionable Advertisements) Act of 1954, The Prevention of Food Adulteration Act of 1954, The Essential Commodities Act of 1955, The Trade and Merchandise Marks Act of 1958, The Monopolies and Restrictive Trade Practices Act of 1969, Competition Act of 2002, The Cigarettes (Regulation of Production, Distribution, and Supply) Act of 1975, The

Standards of Weights and Measures Act of 1976, The Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act of 1980, The Standards of Weights and Measures (Enforcement) Act of 1985 and The Bureau of Indian Standards Act of 1986.

The Indian consumer market is primarily differentiated into urban and rural markets with a wide margin of people belonging to middle class, largely affluent and economically disadvantaged. During that time period, a consumer protection act was enacted with the goal of strengthening consumer protection and establishing Consumer Councils and other bodies to resolve consumer disputes and other related matters. However, due to continued disparity and instances of consumer loss, the Government instead of bringing an amendment in the 1986 Act, enacted Consumer Protection Act, 2019 altogether to provide enhanced protection to the consumers in times of the revolutionary e-commerce industry, modern methods of providing goods and services including online sales, teleshopping, direct selling and multi-level marketing in addition to the traditional methods including formation of Central Consumer Protection Authority, Jurisdiction of Consumer Courts at the convenience of Complainant's Residence or Destination of Work, Reparation for damages and Settlement via Mediation form of Dispute Resolution.

### **III. COVID-19<sup>1</sup>**

The World Health Organization (WHO) declared COVID-19 or Corona Virus as a 'pandemic' on March 11, 2020. It is more than after a decade that the WHO has proclaimed a pandemic after 2009 when the H1N1 Influenza had outbroken and this proclamation was widely criticized for by the member states and countries who were of the opinion<sup>4</sup> that it caused an unnecessary panic including depletion of monetary assets for the investment catered to institute safeguard mechanisms against a relatively mild and easily containable flu.

A pandemic can be defined as "an epidemic occurring worldwide, or over a very wide area, crossing international boundaries and usually affecting a large number of people." COVID-19 in India has adversely affected the functioning of all the three Organs of the State, namely, the Legislature, Executive and the Judiciary.

On March 24, 2020 the Hon. Prime Minister of India, Sh. Narendra Modi in pursuance of the WHO, United Nation Body Guidelines had announced a Nation-wide lockdown with the aim of curbing the wild spread of COVID-19 in a Republic of and home to more than 1.3 billion people. India among other nations has been trying to combat this situation whilst trying to keep

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<sup>4</sup> World Health Organization (WHO) Pandemic Definition, <https://www.publichealth.com.ng/world-health-organization-who-pandemic-definition/>

the people morale high and ensuring availability of resource to each and every person which itself is a baffling task amidst the nation-wide lockdown and supplying needs of people in the world's largest democracy.

There have been instances of Disruption in food chains, shortage of Fast-Moving Consumer Goods, Essential Goods and Sudden Demand Increase for medical infrastructure and healthcare products. The psychological fear among the citizens being admitted to a nation-wide lockdown for over 1 month and 24 days has caused a panic among people affecting mental health of people apart from acts like Stock Hoarding due to which the availability of goods have been limited. This limitation had certainly attracted incidents of price gouging in the early days of the pandemic when people were panic buying goods of mass utility. However, it is to the credibility that the Government of India has been trying to best manage the essential services.

A *Suo moto* proceeding was conducted on April 6, 2020, during which the Supreme Court of India issued guidelines to ensure that Indian courts can be effectively operated via video conferencing during the COVID-19 lockdown, which will be implemented immediately.

The following directions were issued under Article 142 of the Indian Constitution by a bench consisting of the Chief Justice of India, Hon. Justice DY Chandrachud, and Hon. Justice L. Nageswara Rao:

- Every measure taken or to be taken by this Court and the High Courts to reduce the physical presence of all stakeholders on court premises and to ensure that courts adhere to social distancing guidelines and best public health practises will be deemed legal by the courts.
- The Supreme Court of India and all High Courts in India have the authority to enact legislation that is necessary to ensure a robust functioning of the judicial system through the use of video conferencing technologies.
- Each High Court has the authority to determine the video conferencing technologies' use modalities that are appropriate for the temporary situation at hand, taking into consideration the distinctive characteristics of each state's judicial system as well as the dynamic nature of public health in that particular state.
- The relevant courts must maintain a helpline in order to ensure that any complaints about the quality or audibility of the feed are communicated during or immediately following the proceeding. The helpline should be accessible at all times during the proceeding. If this is not the case, no further complaints will be considered.

- The District Courts of each state shall use the video conferencing method specified by the applicable Supreme Court when conducting video conferencing.
- It is the Court's responsibility to notify and make available to litigants who lack the necessary means or access to video conferencing facilities, the services provided by the video conferencing facility;
- Courts have the authority to appoint amici curiae and provide them with video conferencing facilities when it is determined that such action is necessary.
- While video conferencing will be permitted during the trial and appellate stages, its use will be restricted until the High Court's adopt appropriate rules.
- Under no circumstances shall video conferencing be used to record evidence unless both parties have given their consent to do so. If evidence must be taken in the Courtroom, the presiding officer must ensure that an appropriate distance exists between any two individuals who are present in the Courtroom at the same time.
- It is entirely at the discretion of the presiding officer whether or not to restrict access to the courtroom or the areas where the attorneys argue their respective cases.
- With the exception of cases in which a party is contagious, no presiding officer has the authority to prevent a party from entering the courtroom. But in the event of a large number of litigants, the presiding officer may decide to limit the number of litigants who are permitted to participate. In the event that it is not possible to limit the number of participants, the presiding officer may choose to adjourn the proceedings.

The National Consumer Disputes Redressal Commission (NCDRC) as constituted under the Consumer Protection Act, 1986 during the lockdown provided for matters with urgency to be allowed redressal by the Hon'ble President of the NCDRC giving the autonomy and support to the consumers for their right to redressal. This provision preserves and makes the enforcement of rights of consumerism to hold a key importance. However, a provision of online Consumer Dispute Redressal via Web Conferencing can arguably further reform the redressal of consumer disputes in an easier and quicker fashion saving parties the most essential resources of time and monetary value.

It is essential to ensure that the Consumer Protection Act is implemented in an effective, efficient, and equitable manner in order to cultivate a culture of good governance in the United States, which will, in turn result in better promotion and protection of consumers' rights in the country. It is impossible to file a complaint if the rights of consumers regarding the quality of

goods and services are guaranteed and protected. The result would undoubtedly be the creation of an environment conducive to the satisfaction of clients, customers, and consumers with regard to the things that are most important to them in their daily lives.

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