

Consumer protection act 1999 law commercial essay

Law



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It sounds very good and indeed is very good, so long what one buys is what one gets. Unfortunately it is not always the case. Whatever said and done about computers, the involvement of human beings are inevitable. And once human beings get involved, the human traits invariably follow suit. That is the good, bad, and the ugly. It is this human trait that one must be wary of.

CONSUMER PROTECTION LAWS

With so many industries exploiting customers through business malpractice, one would question whether there are any laws that protect consumers from these unscrupulous entities and their unethical profit-making schemes. Ever since tort cases like *Donoghue v. Stevenson* [1932] AC 562 and *Carlill v. Carbolic Smoke Ball Company* [1893] EWCA Civ 1 made manufacturing companies and business firms realize their liability towards customers, consumer protection laws have developed along as a social movement in order to protect consumers from harmful products and unfair trade. This movement eventually gained support from both governmental and non-governmental bodies. Besides protecting consumers from harmful products and unfair trade, consumer protection laws are also designed to prevent businesses that engage in fraud or unfair practices from gaining advantage over their competitors. Consumer protection covers a wide range of topics, including but not necessarily limited to product liability, privacy rights, unfair business practices, fraud, misrepresentation, and other consumer/business interactions.

CONSUMER PROTECTION ACT 1999

The Malaysian Consumer Protection 1999 (CPA) was enacted to protect consumers right in Malaysia. This act was enforced to protect consumers from unethical business transactions especially regarding buying and selling matters between dealers and consumers. Before this, Section 2 of this Act provides that the Act does not apply to any trade conducted by electronic means unless otherwise prescribed by the Minister. E-commerce activities are still new and have not yet developed further in Malaysia at the time the Act was enforced. Therefore, the provision in this Act does not specifically indicate whether the applicable activities includes activities of e-commerce in Malaysia. However, technology in Malaysia had developed and had led to changes because nowadays, consumers are more likely to make business transactions through online transactions or e-commerce as there are a lot of choices of goods and it is easy operated. There are various problems that arise through activities involving e-commerce transactions such as consumer fraud cases. For example, items ordered through certain websites does not reach the buyer although payment had been made via bank or post. Or the quality of the items that had been ordered does not achieve the standard like had been stated in the websites. Furthermore, as according to Section 19 of the Act, manufacturers of products or goods must comply with safety standards stipulated in section 21 of the Act. Therefore, to conduct business transaction, the manufacturers and sellers must ensure that products that had been manufactured and sold are safe to be used by the consumers, If this Act clearly applies to electronic transactions, the provisions stated is relevant to consumers to take action against traders who had committed

fraud to the consumer tribunal or court. So, government had taken what can be considered as a wise action when this Act was amended in August 1997, which the consumer is protected under this Act for transactions involving online matters. As according to Section 2 of the Act " Subject to subsection (2), this Act shall apply in respect of all goods and services that are offered or supplied to one or more consumers in trade including any trade transaction conducted through electronic means".

8 BASIC CONSUMER RIGHTS

Consumers International (CI) is a world federation of consumer groups that serves as the independent and authoritative global voice for consumers.

Formerly known as the International Organization of Consumers Union (IOCU) during its establishment in 1960, CI became known as the voice of consumer movement issues such as: product and food standards, health and patients' rights, the environment and sustainable consumption, and the regulation of international trade and public utilities. CI has four offices in Kuala Lumpur, Malaysia; Santiago, Chile; London, United Kingdom; and Johannesburg, South Africa. CI introduced eight basic consumer rights which in its view should be available to the consumer. These include the rights to:-choice - to be able to select from a range of products and services, offered at competitive prices with an assurance of satisfactory qualitysatisfaction of basic needs - to have access to basic, essential goods and services: adequate food, clothing, shelter, health care, education, public utilities, water and sanitationssafety - to be protected against products, production processes and services which are hazardous to health or lifeinformation - to be given the facts needed to make an informed choice, and to be protected against dishonest or

misleading advertising and labelling. be heard - to have consumer interests represented in the making and execution of government policy, and in the development of products and services. redress - to receive a fair settlement of just claims, including compensation for misrepresentation, shoddy goods or unsatisfactory services. consumer education - to acquire knowledge and skills needed to make informed, confident choices about goods and services, while being aware of basic consumer rights and responsibilities and how to act on them. a healthy environment -to live and work in an environment that is non-threatening to the well being of present and future generations.

Ministry of Domestic Trade, Co-operatives and Consumerism (MDTCC)

Formerly known as the Ministry of Domestic Trade and Consumers Affairs, the Ministry of Domestic Trade, Co-operatives and Consumerism (MDTCC) was established on October 27, 1990 with the aim towards encouraging ethical trade practices and to protect consumer interest. MDTCC may publish in the Gazette a list of products considered unsafe to be sold and may then require the suppliers or manufacturers of the prohibited products to either recall the products, stop the sale and advertisements of the products, disclose to the public information relating to the characteristics which make the products unsafe, repair or replace the products or refund the purchasers. The ministry's functions include managing matters related to consumer protection and intellectual property; licensing for manufacturing and sales, direct selling, and selling of petroleum and petrochemical products; implementing weights and measures rules; and registering of trusts companies and businesses. Official site features consumerism education,

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consumer claim tribunal, goods under price and supply control, acts, statistics, forum, e-aduan and e-tribunal. The ministry has also set up an interactive and informative consumerism portal known as 1Malaysia Pengguna Bijak (1MPB). Consumer can update themselves with current price of 100 consumer items throughout Malaysia through Pricewatch module. It helps consumer plan their spending wisely through price comparison and know the nearest premise that offer fair price. 1MPB also provides SMS services to consumers - price check and subscriptions, complaint and tribunal claim.

Federation of Malaysian Consumers Association (FOMCA)

Federation of Malaysian Consumer Associations (FOMCA) is a national non-governmental organization that is voluntary, non-profit and non-political. It is an umbrella body of registered consumer associations in Malaysia. FOMCA links the activities of consumer associations in Malaysia as well as at the international level and works towards strengthening consumer protection through advocacy, lobbying, networking, representation, campaigning and education. FOMCA was formed primarily to: Strengthen the growth and spread of the organized consumer movement in Malaysia. Resolve consumer issues and promote the rights of consumers. Promote through the purchasing power of consumers a " need-oriented" development that will ensure socio-economic justice and environmental quality of life for all. Coordinate as an advisory body to all the other consumer organization in Malaysia.

Regulatory Framework for e-commerce in Malaysia

Several cyberlaws were enacted by MCMC, the Malaysian regulatory agency for the communications and multimedia industry. The Malaysian Government has committed itself to providing a comprehensive regulatory framework of cyberlaws and intellectual property laws to facilitate and assist the development of IT and e-commerce. In fulfilling this commitment, the Government has enacted laws such as the Digital Signature Act 1997, which provides an avenue for secure online transactions through the use of digital signatures; the Computer Crimes Act 1997; the Communications and Multimedia Act 1998; and has drafted the Personal Data Protection Act.-

Digital Signature Act 1997This Bill was registered on October 1st, 1998.

Scope: Digital Signatures. Generally applicable to all communications. This Act establishes the legal validity, enforceability and admissibility of digital signatures. It recognizes repositories and authorizes the Minister to appoint the Controller of Certification Authorities. Additionally, the Act addresses the functions of certification authorities, the general requirements for a licensed certification authority, and the application procedures to become a licensed certification authority. This Act also subjects the licensed certification authorities to annual performance audits. Finally, the Act delineates requirements for the issuance, suspension and revocation of a certificate.-

Computer Crimes Act 1997The Computer Crimes Act 1997 (" CCA") primarily makes unauthorised access to computers, programmes, data and other IT information an offence. The offences are categorised in the CCA as:(i) Unauthorised access to computer material;(ii) Unauthorised access with intent to commit or facilitate further offence;(iii) Unauthorised modification of

the contents of any computer; and(iv) Wrongful communication of the means of access.-Personal Data Protection Bill (PDP) (yet to be enacted)Status: The Act is in the final stages of drafting and will likely be introduced into Parliament soon. It has been submitted to the Attorney-General's Chambers. Scope: The PDP Act aims to increase confidence in online transactions, and protect the privacy of personal data residing in computer systems and those transmitted over networks and the Internet. This Act will introduce penalties including fines and imprisonment for those who abuse cyber-information.- Other Security, Legislation, and RegulationThe Energy, Communications and Multimedia Ministry also announced on February 3, 2004, that the bills for the Electronic Government Activities Act (EGA) and the Electronic Transactions Act (ETA) were in the final stages of completion and approval. The EGA will provide the legal framework for efficient and secure electronic government services by facilitating and enabling online government transactions with the public and between government agencies. The ETA, finalized by the Domestic Trade and Consumer Affairs Ministry, was now with the Attorney-General's Chambers. It is primarily targeted at boosting e-commerce by providing legal recognition of electronic transactions, including e-commerce transactions (Ibid). In general, the different laws, policies, and regulations related to regulating e-commerce and providing some protection to consumers in Malaysia have been identified to be as listed below. However, these laws, policies, and regulations still have several inadequacies that need to be addressed. Several of the newer regulations were drawn up to promote ICT and e-commerce and had little or no consideration for

protection of the consumer. They therefore need to be examined further for their capabilities to ensure consumer protection in e-commerce transactions.