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CONSUMER PROTECTION AGAINST THE FALSE DESCRIPTION OF HALAL IN E-COMMERCE

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ABSTRACT

The rapid emergence and growth of e-commerce have caused an increase in halal issues, especially with the false description of Halal in E-Commerce amongst the various online platform providers. More specifically, halal issues that need legal attention include safety issues, deceptive conduct, misleading representation, and false description. This study aims to analyse the adequacy of the Consumer Protection Act 1999 to protect consumers, especially regarding false descriptions of halal in online transactions. To achieve this objective, the approach is to adopt a qualitative research method, in which content analysis is made by comparing the consumer protection laws in force in other countries. The findings of this study revealed several challenges

in applying such laws, which used ambiguous terminologies and imposed limited liabilities on online market operators. A few recommendations have been put forward, such as the interpretation of terms such as ‘consumer,’ ‘goods,’ ‘description,’ and ‘suppliers’ needs. These terminologies have to be revised, in addition to extend the liabilities of online market operators so that there will be better consumer protection for Muslims when they shop online.

Keywords: Consumer Protection Act 1999, halal products, online transactions.

INTRODUCTION

The Covid-19 pandemic forced consumers to exercise social distancing and self-lockdown, which led them to rely heavily on online shopping (Atikah, 2022). The presence of popular shopping websites such as Zalora, Lazada, Shopee, Ezbuy, Zapmeta, and many more online platforms has increased the trend not only for business-to-consumers (B2C) online business, but also consumer-to-consumer (C2C) transactions. Malaysian consumers were actively involved in online shopping during the Movement Control Order (MCO), where Lazada and Shopee were the most popular e-commerce platforms (Joschka, 2021). Online transactions provide many benefits to consumers, such as a wider choice of readily available products, convenience, and detailed product information (Liew & Falahat, 2019). Nevertheless, various emerging issues have arisen related to online transactions, such as being concerned about the status of products for Muslim consumers, whether it is halal or not.

According to Syariah laws, the label Halal is used to describe as any goods, food or services which do not contain anything intoxicating or hazardous and are free from anything impure (Trade Descriptions (Definition of ‘Halal’) Order 2011). All products deemed to be Halal must acquire a valid certificate from authorised certification bodies (Trade Descriptions (Certification and Marking of Halal) Order 2011). According to Sharif and Ghani (2019), there are emerging issues of violation or non-shariah compliance, including the lack of knowledge among business owners selling halal products online. The statistics shown by JAKIM (the Department of Islamic Development,

Malaysia) has revealed that many suppliers did not comply with the existing laws and the problem has become more severe with online transactions. This is because companies and product operators intend to make more profit by describing their products as Halal. The issue is becoming crucial as suppliers can also come from other countries. The emerging existence of online markets can easily enable businesses worldwide to market their products on these online platforms. The long list of foreign Halal certifications recognised by JAKIM, which carry different Halal logos, will also confuse consumers (Mustafa ‘Afifi, 2019).

Therefore, the existing laws need to be reviewed, particularly the provisions dealing with halal issues, such as the Consumer Protection Act 1999 (CPA 1999), Trade Description Act 2011 (TDA 2011), and Food Act 1983 (FA 1983). At the same time, there are several statutes which may be applied to e-commerce in Malaysia, such as the Computer Crime Act 1997 (CCA 1997), Electronic Commerce Act 2006 (ECA 2006), Direct Sales Act 1993 (DSA 1993), and Digital Signature Act 1997. Contract law and tort law are also applicable to online transactions. However, the discussion in this paper is only focused on the protection available under the CPA 1999. This is because it is the primary statute that aims to protect consumers and allows them to claim compensation; rather than the TDA 2011 and FA 1983, which are criminal in nature. This study will provide an overview of the current situation on consumer protection by comparing the CPA 1999 with the consumer protection laws of other countries, such as those in Australia and India. The Indian Consumer Protection Act 2019 and its Regulations are specifically referred to in detail because these legislations have repealed the previous CPA 1986 to provide greater protection to online consumers.

LITERATURE REVIEW

Concept of Halal

Nowadays, Malaysians should be aware that halal issues should not be taken lightly. Rather than being seen only as a religious requirement, halal compliance has become a social norm of conduct among Muslims and non-Muslims and is now widely accepted.

The word Halal is derived from the Qur'an and refers to everything permissible according to Islamic rules (Saiful Bahri et al., 2016). Halal is contrary to haram, which means "forbidden". When it comes to food preparation, the meaning of *Halalan tayyiban* includes material that is safe and beneficial to consumers in terms of moral and ethical considerations and does not clash with what is prohibited by Islam in any way (Haque et al., 2006).

Emergence of E-Commerce

In conjunction with technological and scientific advancements, many people use technology to engage with others and make purchases. In response to the fourth industrial revolution (Industry 4.0), e-commerce has rapidly expanded (Laudon & Traver, 2010). In recent years, Muslim consumers have been more sensitive about ensuring that halal products are supplied through e-commerce (Sharif & Ghani, 2019). It is also essential to develop a complex and distinct set of criteria that define Islamic and Shariah-compliant requirements regarding e-commerce transactions (Mohd Zulkifli et al., 2019). Because of the nature of the e-commerce system, suppliers and buyers do not meet in person, but rather communicate over the Internet. It is common for the goods to be exchanged and shown on the website for commercial transactions. Both buyers and sellers alike gain from such online transactions (Al-Daboubi & Alqhaiwi, 2022).

Halal Certificates

In Malaysia, JAKIM has recognised more than 20 different halal certificates as a guide provided to help consumers choose Halal products (Che Muhamad Zaina, Rahman, Ishak & Shamrahayu, 2015). Malaysia also has adopted several regulations to govern the issuance of halal certification, as a result of the abuse of the halal label and certification, which continue to be a significant source of the problem. The problems are becoming more severe since the need to acquire Halal certification is optional (Zalina Zakaria, 2008). Besides, many consumers negatively perceive the organisations responsible for issuing Halal certificates (Muhammad et al., 2020). Because of the lack of compliance in the monitoring of halal issues, consumers are beginning to not trust the authority and have doubts regarding the authenticity of goods or services claimed to be halal certified (Ilya et al., 2011).

Halal Logo

The business operators' knowledge and insight into halal principles and regulations are doubtful because of the many incidences of and widespread public concern about non-shariah compliances. Various types of halal logos are shown on food products and in restaurants. This rampant practice has confused consumers and given rise to issues regarding the trustworthiness of Malaysia's Halal certification process (Mustafa 'Afifi & Ahmad, 2014; Nor Ardyanti, 2013). Nonetheless, a halal logo on the product and the fact that the product's manufacturing is subject to Islamic regulations has persuaded Muslim merchants and customers to buy the product (Mohd Aliff et al., 2015). The problems become more worrying when the sale transaction takes place in cyberspace. As a result, there are rising concerns about the online items being compliant with Shariah regulations, mainly when suppliers are from various nations where each country has its own halal certification system. The debate over the *halalness* of goods goes beyond the products to include the entire halal product manufacturing process, packaging, storing, and transporting. Food can be classified as halal when it has been prepared, processed, stored, packaged, and handled according to Islamic law, as well as when it has been transported according to shariah principles (Siti Zanariah & Nor Azura, 2017). Thus, the issue is who should ensure that the products sold online are not falsely described as halal. Furthermore, the problem becomes critical since it is not easy for a consumer to claim compensation, especially from foreign suppliers, due to the issue of jurisdiction (Nasihah et al., 2020). The significant contribution of this research is to highlight the loopholes in the present consumer laws of Malaysia and indicate how important it is for the relevant laws to be reviewed. The role of online marketplaces needs to be reviewed so that stricter responsibilities can be imposed on them. This research is also in line with Industry Revolution 4.0 on the need to uphold the efficiency of e-commerce, and at the same time, consumers are protected while using the various available technologies.

METHODOLOGY

This research was a qualitative study, focusing on the analysis of the CPA 1999 regarding false halal descriptions. Besides that, an investigation was made by comparing the laws in other countries

like India, the United Kingdom, and Australia regarding consumer protection on halal false descriptions. The new Consumer Protection 2019 (India) and the Consumer Protection (E-commerce) Rules 2020 (India) were conscientiously referred to. The content analysis was conducted to identify the lacunae of the CPA 1999 in protecting consumers regarding halal matters.

ANALYSIS AND DISCUSSION

The Consumer Protection Act 1999

The CPA provides legal protection to consumers regarding goods and services. This Act protects consumers, especially by establishing the Tribunal for Consumer Claims. It provides remedies for consumers, and at the same time, it imposes criminal penalties on those suppliers who commit offenses. The CPA specifies that any act and representation that can lead the consumers into error is prohibited. It includes a false statement inducing a consumer into believing that the goods are under any approval and certification. However, the CPA has no provisions for halal products or halal certification. Having said that, Part II of the Act does have a relevant provision on false representation. On the other hand, Part V states that the suppliers must supply goods as described (section 34).

Halal Issues

There are several Halal issues in the marketplace, which significantly impact sales in most Islamic countries. Since 2003, the Prime Minister of Malaysia has given close attention to halal issues (Talib et al., 2008). Among the halal problems that have come to the fore, is the issue of using non-halal products, particularly the use of non-slaughtered animals according to the rites of Islam (Al-Shammari, 2021). Aside from that, one of the most concerning topics is the use of hormones in poultry and livestock. This injection has the potential to be harmful to human health. It is difficult to confirm the *halalness* of food or other consumables products, particularly when they are pre-packaged or processed. In today's global market, the notion of halal cannot be limited to be merely denoting "food that is devoid of pork", since this definition is no longer sufficient. Most problems occur in

the process of food production itself. The problem becomes critical if the sale takes place in cyberspace. It is difficult for consumers to ascertain the *halalness* of the products sold on e-commerce and just rely on the information provided on websites. If the suppliers give a false statement, it is difficult to determine the authenticity of the Halal logo.

CHALLENGES IN THE APPLICATION OF THE CPA 1999

First Challenge: The Definition of Electronic Trade

The CPA 1999 protects consumers, especially by establishing the Tribunal for Consumer Claims. Initially, the CPA 1999 did not extend to online transactions. In 2007, the phrase “electronic means” was inserted in Section 2 to the effect that the CPA would be applied to electronic trading. In addition, the Consumer Protection (Electronic Trade Transaction) Regulation 2012 was also introduced to impose responsibilities on online marketplace operators. However, the CPA 1999 does not define electronic means. The Indian CPA 2019 defines e-commerce as “buying or selling goods or services including digital products over the digital or electronic network.” It has been suggested that there is the need to define ‘electronic means’ and e-commerce in the CPA 1999.

The first thing that needs to be considered before applying the CPA 1999 is the issue of who is a consumer. A consumer is defined as an “individual who acquires or uses goods or services ordinarily acquired for personal, domestic or household purposes, use or consumption.” Meanwhile, paragraph (b) (i) states that the consumer must be a person who does not resupply goods in trade. This shows that the law only gives protection to individuals rather than businesses. However, cases like small businesses also need protection. For example, a small trader who bought an ingredient for a bakery with a false halal description through an online transaction could not claim under the CPA because he was not a consumer. The price of the ingredient for the bakery was small and not worthwhile for him to take action in court. This narrow definition does not recognise a person as a “consumer” if the goods are obtained from a small business (Nor Adha & Sakina, 2011). In comparison with the Indian CPA 2019, a consumer is defined under Section 2(7) as a person who buys goods including both online

and offline transactions. However, Indian law also does not extend protection to small businesses.

Second Challenge: Safety Issues

Another issue that needs to be considered is the scope of the CPA 1999 regarding safety issues. Although the definition of goods provided under the CPA 1999 is considered general enough to cover goods acquired for household and personal use, as stated under Section 3(1), there are exclusions as far as safety issues are concerned (Zeti Zuryani et al., 2015). Section 19(6) excludes healthcare goods and food from the ambit of Part III of the CPA 1999. As such, the safety and hygiene of food items and healthcare are not covered under the CPA 1999. The concept of *halal tayyiban* in Islam is that a product is not only halal, but must be clean and safe to be consumed (Harlida & Alias, 2014). The rationale for the exclusion is that the Ministry of Health regulates healthcare and food products. However, excluding these products from the CPA's ambit weakens the protection, mainly as these products are widely sold online. The CPA 1999 should also be utilised to tackle this issue since it involves the safety of consumers.

The CPA 1999 seems to be different from Section 2 of the Australian Competition and Consumer Act 2010, which provides a broader interpretation of the meaning of "consumer goods" without any limitations to the types of goods, and this includes healthcare products and food as long as their intake is for personal and household use. It is also similar to the Indian CPA 2019, which provides a comprehensive meaning of goods as that which includes food under Section 2(21) and the definition of a consumer also states, "any goods". Although there are other acts in Malaysia, like the Food Act 1983, to address safety issues, it is under the ambit of a branch of criminal law. However, if the food involves false and misleading representations, it is still regulated under the CPA 1999 because the issue is not about safety and cleanliness, but false representation. Thus, consumers cannot claim damages under the CPA 1999 due to the status that the food does not comply with the concept of *halal tayyiban*. Still, they can only claim compensation if there is a misleading and false trade description of the halal logo. Furthermore, the application for the halal logo is not mandatory under Malaysian law.

Section 3(1) of the CPA 1999 requires the presence of a contract before the CPA 1999 can be applicable, which is contrary to the definition of

a consumer, as the definition does not require a contract to exist. A contractual relationship in supplying goods will involve two parties interested in a contract: a seller, a buyer, a businessman, and a customer. The issue is who the suppliers are in the context of transactions conducted through online markets, either they are the sellers or the market operators. The CPA 1999 defines a supplier as a seller who can transfer the possession of goods, and it is unlikely that a market operator can do so. Thus, a market operator is not a supplier under the CPA 1999. The Consumer Protection (Electronic Trade Transactions) Regulations 2012 defines an “online marketplace” as a website where third parties market goods and services for trade. On the other hand, “online marketplace operator” means a person who provides an online marketplace (Regulation 2). It is essential to highlight here that the scope of the Regulation is minimal. It only imposes obligations on the supplier to disclose information (Regulation 3), allows buyers to rectify errors, and acknowledges receipt (Regulation 4). The online market operator’s obligation is limited to only maintaining a record of the suppliers for two years (Regulation 5).

Compared to the CPA 2019 of India, the Act defines “electronic service provider” as a person who provides technologies or processes to enable a product seller to engage in advertising or selling goods or services to a consumer and includes any online marketplace for online auction sites (Section 2(17)). Further obligations of the electronic service provider are provided under the Consumer Protection (E-commerce) Rules 2020, which are more comprehensive than the Malaysian Regulation, which imposes obligations on e-commerce entities, marketplace entities, and sellers in the marketplace. For example, Regulation 5 imposes liability on the marketplace to ensure the sellers on its platform provide accurate descriptions of goods or services. The law seems to impose responsibility on market operators to ensure that all sellers who sell products through their markets do not commit unfair trade practices, including giving false and misleading descriptions (Kirk & Cullen, 2020).

The Court of Justice of the European Union (CJEU) in *Coty Germany v. Amazon* (EU: C: 2020:267) also gave a significant ruling in respect of the liability of the online marketplace. In this case, the CJEU ruled in favour of Amazon, where merely storing goods by Amazon was not enough to impose liability if they did not know of a trademark infringement. However, the CJEU declined to comment on market

operators' liability if they perform more than simple storage, such as advertising and managing sales processes. According to Kirk and Cullen (2021), the silence of the Court on this aspect might indicate that the market operator can be found directly liable for any infringement happening on their platforms in the future.

Third Challenge: False and Misleading Halal Description

Part II of the CPA 1999 deals with providing precise information, and as such false and misleading representation are offenses under the Act. Halal issues occur when the consumers depend entirely on the information stated on the website without checking carefully before buying through online transactions. Based on the definition in Section 8(a) of the CPA 1999, it clearly shows that it is an offense to give false information or commit misleading conduct. However, no specific definition for the expression "representation" of goods and products through online transactions is given. By contrast, Section 13 of the Trade Description Act 2011 gives a better explanation of 'representation', in which it is stated that any mistake made is also deemed a 'false' statement. Falsity is more difficult to prove since the proof's burden is heavier than just being misleading (Barry, 2000). If they show any misstatement of fact, then the offense of falseness can happen (Painter, 1992).

As for 'misleading' or 'deceptive', it can happen in the issues of halal description, whereby the online seller provides statements in the description that are accurate but virtually false because of what is missed out. For example, sellers omit the important fact that the products are not halal. Compared with the CPA 2019 of India, Section 2(28) says that misleading advertisement is any action shown and conveyed by the seller that has been falsely described, like leading consumers and concealing important information. So, according to the Indian CPA 2019, not stating essential facts can be considered an offense.

Section 10(a) of the CPA 1999 under False or misleading representation stated:

(1) No person shall make a false or misleading representation that - (a) the goods are of a particular kind, standard, quality, grade, quantity, composition, style or mode. It can be seen in the case of *PP v Wee*

Mee Industries [1986] 1 MLJ 505, where the court held a company guilty of using the Halal logo without disclosing that the soup powder contained animal fats. Therefore, it is clear that making false and misleading descriptions, such as displaying halal logos and marks that are not issued by an authority and certified body is an offense (Nasihah, Elistina, and Afida, 2020). Another weakness of the CPA 1999 is that it does not state how to determine if the description is confusing or false. What is stated in the CPA 1999 is that a description becomes false when it causes a consumer to commit an error. Thus, the test looks at consumers' state of mind and whether they may commit a mistake. In this aspect, a reasonable man test is applicable. In contrast to the provisions found in Australia, where the Competition and Consumer Act 2010 provides a clear meaning of misleading, Section 151(2) states that the representation is misleading unless the description submitted is opposed. This is good for a consumer since the burden of proof is on the person (the supplier) who wants to claim that the statement is not misleading. Therefore, it is proposed that the same approach should be applied in determining 'misleading' under Section 9 of the CPA 1999.

Fourth Challenge: Implied Guarantee That Goods Comply with Description

The main objective of Part V is to protect consumers when they enter into a contract to purchase goods. It consists of seven implied guarantees. The implied guarantee relevant for discussion here is that goods must comply with the description provided under Section 34 of the CPA 1999. Assuming that the goods purchased by the consumer do not correspond to the description, it then follows that the supplier is deemed to have breached this implied guarantee and would be possible for the said consumer to claim compensation. However, the issue arises in respect of the word "description". No provision under the CPA 1999 clarifies or explains the term "description". The following are several concerns related to the issue of halal in electronic commerce:

- i. The online seller states that the product is halal, but no Halal logo from JAKIM is issued.
- ii. The online sellers display the halal logo on the website, but the logo is not certified by JAKIM.
- iii. The online seller is silent by not stating that the product is

not halal in the description on the website, but illustrates the image that the product is halal.

The question is whether the situations described above are included in the scope of “description” in electronic commerce. What can be considered ‘sale by description’ can be illustrated in the case of *Union Alloy (M) Sdn. Bhd. v Yeoh Construction Company Tiong Lay Sdn Bhd* [1993] 3 CLJ 670. The issue, in this case, was whether the goods conform to the description in the sales contract and the brochure, and whether the buyer depended on those descriptions. This means that sales through description occur when the buyer buys an item without seeing it when the contract takes place. The decision to purchase is solely based on the description accompanying the goods, such as the description in a brochure. In other words, “description” can also be an expression or act describing the goods sold (Elistina, Nasihah & Afida Mastura, 2022). Thus, if there is any description in digital form on online websites like Shopee or Lazada, the consumers have the right to expect that the product is halal if the product states and exhibits any expression of halal or describes the product as halal on the website. However, the general provision of Section 34 may make it difficult for a consumer to claim compensation. If it is clear that a fake halal logo is used, the supplier definitely can be considered to have breached this implied guarantee. The problem is if the supplier only describes that the product is ‘Halal’, ‘Muslim friendly’, or has an Islamic symbol but does not have a ‘Halal logo’ from JAKIM, can it be considered a breach of this implied guarantee? It is essential to highlight here that the JAKIM halal logo is not compulsory, so it is not an offence if the supplier has described their product as halal even without a JAKIM logo.

Fifth Challenge: Unclear Definition of ‘Description’

Another issue is whether the description made outside the website can also be considered a description within the ambit of this provision. For example, if the false description is on the packaging of the goods or in the catalogue, but is not on the website. Can this false description be considered a breach of this implied guarantee? In the case of *Gunalan a/l Subramaniam v Swiss Garden International Vacation Club Sdn Bhd* (TTPM-WP-(P)-15882010), the President of the Tribunal, in this case, had described a representation as a statement that induced the

representee to enter into the contract. Thus, only descriptions on the website are considered since they influence the consumers to buy the product. If the consumers find that the Halal logo is false upon receipt of the goods, no action can be brought against the suppliers since the website did not declare the Halal logo. Section 34 of the CPA 1999 should clearly define the word “description” more specifically, in the context of electronic commerce to avoid confusion in interpreting it.

It is also interesting to highlight here that there is an obligation under the Trade Descriptions (Goods made from any part of pig or dog) Order 2013 on the suppliers to disclose the fact that the goods are made from pigs or dogs (Order 4). Unfortunately, this Order does not allow the consumers to claim compensation since it is criminal. Thus, if the suppliers do not declare that their products are made from pigs or dogs on their website, they are not considered to have breached this implied guarantee, and subsequently, the consumers cannot claim compensation. This is compared with Section 2(11) of the Indian CPA 2019, where withholding important information deliberately can be considered transaction deficient. The same approach should be considered for adoption in Malaysia.

Sixth Challenge: Limited Obligations of Market Operators

Another issue worth exploring is the C2C transaction, whereby via online commerce, the line between a supplier and a consumer is becoming very blurred. The evolution of the gig economy encourages consumers to also become a supplier and market their products on social media, or through the platform of market operators. It is a matter of whether the market operator is liable under Section 34 if the goods supplied do not comply with the description. The answer is that they are not responsible since they are not the suppliers under the CPA 2019. The market operators are only responsible for maintaining a record of the sellers in the online marketplace for two years (Regulation 5). Thus, their obligations are minimal and it is safe to conclude that the consumers cannot claim compensation against them under the CPA 1999. By comparing with the Indian Consumer Protection (E-commerce) Rules 2020, the liability of the market operators is extended to ensure that the sellers who market products through their platforms would not commit unfair trade practices, including false descriptions (Regulation 5). This is a good

approach so that the market operators should also be responsible for any transactions on their platform.

RECOMMENDATIONS

Malaysia must expand its legal provisions to provide a more comprehensive protection strategy for consumers, especially regarding the issue of false halal descriptions in electronic commerce. The CPA 1999 is primarily intended to give comprehensive protection for all consumers. However, after reviewing the CPA 1999, this legislation has several loopholes and inadequacies. The law in the CPA 1999 is not sufficient to cover halal issues, especially in the electronic commerce environment. Thus, this legislation needs amendments to ensure that the law is up-to-date with the current development of technology, and in line with the spirit of encouraging consumers to buy online, especially during the pandemic. This new medium of transaction needs to be enabled, and at the same time, laws should be in place to protect consumers. The first loophole in the CPA 1999 is in its definition of ‘electronic means’ and e-commerce. It is also essential to state other terminologies, such as consumers, which have not been adequately defined. The definition of a consumer seems restricted to individuals who buy goods for personal and household use. It should however, cover all consumers, whether they purchase online or offline, and whether they offer things for a small business or not. Small businesses also acquire their supply online, but they are excluded from protection under the CPA.

At the same time, the definition of goods is only restricted to goods under the purview of the MDTCA. Unsafe healthcare products are available online, but they fall under the CPA’s exceptions. The definition of a supplier is also considered restrictive since the scope of the online market operator is not covered within Section 3 of the CPA. In addition, with e-commerce, the line between a supplier and a consumer is becoming blurred. Another recommendation is to redefine the word ‘suppliers’ to include online market operators since their presence now is overwhelming. The CPA 1999 should also embrace the definition of an online market operator. These operators need to be treated as suppliers, which will also allow a consumer to claim compensation from them. This at least can solve the issue of jurisdiction, especially if the supplier is a foreign business that has its

place of business outside Malaysia. The Indian law can be a useful point of reference in this aspect. Previously, the types of commerce were only the B2B and B2C configurations. However, a new mode of transaction, the C2C is becoming more rampant, and the gig economy has been enthusiastically welcomed. Subsequently, consumers can now also become suppliers. Thus, it is crucial to revisit the definition of a supplier. A broader interpretation of the phrase ‘in trade’ needs to be given in order to extend the applicable laws on liabilities so as to include these groups of suppliers.

It is also submitted that the CPA 1999 should include a detailed description of the term “representation,” as is provided under the CPA 2019 of India. The definition here concisely conveys the concept of representation. It should include the situation where sellers omit the fact that the products are not halal in the advertisement publicised on the website. It is therefore, recommended to adopt Section 2(28) of the CPA 2019 of India, which provides misleading advertising as any action which purposely conceals essential information about the products. Hence, not stating critical facts in advertisements can be considered an offense. This is to bear in mind that in e-commerce, consumers rely on the statements posted on a website as their primary source of information. For Muslim consumers, the information about halal status is essential for them to decide whether to buy the products, and as such, this critical information should not be concealed. Another recommendation is to adopt the approach in Australia, where the Competition and Consumer Act 2010 has shifted the burden of proof of a misleading advertisement on the suppliers. This is good for a consumer since the burden of proof is on the person (the supplier) who makes the claim that the statement is not misleading. Therefore, it is proposed that the same approach should be applied in determining ‘misleading’ under Section 9 of the CPA 1999.

The same flaw can be seen in Section 34 of the CPA, which relates to the implied guarantee that the goods should comply with the description. Again, the word ‘description’ is generally provided, and the lack of explanation has given rise to several issues related to the problem of halal in electronic commerce. The problem is if the supplier only describes that the product is ‘Halal’, ‘Muslim friendly’, or has an Islamic symbol. However, if it does not have the ‘Halal logo’ from JAKIM, can it be considered a breach of this implied guarantee? It is essential to highlight here that the JAKIM halal logo is not

compulsory, so it is not an offence if the supplier has described their product as halal even though there is no JAKIM logo. This problem remains until the Halal law is legislated to make it compulsory for businesses to apply for Halal certification.

Another drawback is that the CPA 1999 does not place responsibility on the supplier to describe the goods. The implied guarantee only applies if there is a description. It does not extend to the suppliers' liability to describe their goods. Thus, the CPA 1999 should define "description" more precisely and comprehensively to cover the supplier's liability in electronic commerce to avoid any confusion in interpreting this section. In this matter, it is recommended that reference be made to Section 2(11) of the Indian CPA 2019, where a supplier cannot withhold vital information intentionally. Another suggestion is to extend this liability to online market operators. Again, the Indian Consumer legislation is recommended as a reference. The liability of market operators is extended to ensure that sellers who market the products through their platforms would not commit unfair trade practices, including false descriptions.

CONCLUSION

The COVID-19 pandemic has resulted in consumers relying heavily on online shopping. This is a new normal in consumer transactions, and consumers will continue to rely on online shopping even after the pandemic. This is good because consumers can acquire goods from all over the world. However, the problem is related to the use of the Halal logo since the authenticity of the logo is difficult to ascertain. The protection available to online consumers is found to be scattered among various pieces of legislation. However, the CPA 1999 is expected to give adequate protection to consumers. Nevertheless, the consumer protection law under the CPA 1999 seems to have many loopholes, especially regarding online transactions. The Consumer Protection (Electronic Trade Transactions) Regulation 2012 provides very little protection to consumers. The important terminologies need to be reviewed so that the CPA can better protect online consumers, especially Muslim consumers regarding halal issues.

Part II and Part V of the CPA have loopholes that need to be revised so that the provisions are suitable to be applied in electronic commerce. The liabilities of market operators need to be reviewed so that stricter

obligations can be imposed on them. It is essential to look at the Indian CPA 2019 provisions and its Regulation to provide better consumer protection. The revision of the CPA 1999 is especially needed to curb the problems of false halal descriptions, which have been happening quite rampantly in online transactions.

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