EFFECTIVENESS OF THE CONSUMER PROTECTION ACT 1999 IN ADDRESSING UNFAIR TRADE PRACTICES IN MALAYSIA

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ABSTRACT

This article evaluates the effectiveness of the Consumer Protection Act 1999 (CPA 1999) in addressing unfair trade practices in Malaysia. It focuses on the Act's ability to prevent misleading and deceptive trading conducts and to provide effective remedies for consumers. While the CPA 1999 offers a broad legal framework, particularly under Part II, significant gaps remain in enforcement, deterrence, and adaptation to modern commercial practices. The study highlights key issues such as weak penalties, limited accessibility of consumer redress mechanisms, and regulatory shortcomings in digital markets, especially influencer marketing. By comparing approaches in jurisdictions such as the United States, China, and France, the article proposes a hybrid reform model that combines stronger punitive measures with clearer regulatory standards. Ultimately, the article argues that although the CPA 1999 forms a strong foundation for consumer protection, urgent reforms are necessary to enhance its practical effectiveness in safeguarding consumer interests in an evolving digital economy.

Keywords: Consumer protection, unfair trade practices, misleading advertising, consumer redress mechanisms, digital marketing regulation

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ABSTRAK

Artikel ini menilai keberkesanan Akta Perlindungan Pengguna 1999 (APP 1999) dalam menangani amalan perdagangan tidak adil di Malaysia. Penilaian tertumpu pada keupayaan Akta tersebut untuk mencegah perlakuan perdagangan yang mengelirukan atau memperdaya serta menyediakan remedi yang berkesan kepada pengguna. Walaupun APP 1999 menyediakan kerangka perundangan yang luas, khususnya menerusi Bahagian II, masih terdapat kelemahan yang ketara dari segi penguatkuasaan, daya cegah dan keupayaannya menyesuaikan diri dengan amalan komersial semasa. Antara isu utama yang dikenal pasti ialah penalti yang tidak memadai, akses terhad kepada mekanisme tebus rugi pengguna dan kekurangan dalam pengawalseliaan pasaran digital, khususnya pemasaran oleh pempengaruh. Berdasarkan perbandingan dengan pendekatan di Amerika Syarikat, China dan Perancis, artikel ini mencadangkan model pembaharuan hibrid yang menggabungkan hukuman yang lebih tegas dengan piawaian pengawalseliaan yang lebih jelas. Kesimpulannya, walaupun APP 1999 menyediakan asas yang kukuh bagi perlindungan pengguna, pembaharuan segera diperlukan untuk meningkatkan keberkesanan undang-undang tersebut dalam melindungi kepentingan pengguna dalam ekonomi digital yang terus berkembang.

Kata kunci: perlindungan pengguna, amalan perdagangan tidak adil, pengiklanan mengelirukan, mekanisme tebus rugi pengguna, pengawalseliaan pemasaran digital

INTRODUCTION

Stephen Leacock famously observed that 'Advertising may be described as the science of arresting the human intelligence long enough to get money from it.'[1] Evidently, the untrained consumer requires legal protection as he is no match for businesses which attempt to persuade the consumer to buy goods or services on terms and conditions favourable to the vendor.[2] Against the limitations of the traditional private-law framework, particularly the Contracts Act 1950 and the Sale of Goods Act 1957, the Consumer Protection Act 1999 was enacted as a dedicated legislative measure to address unfair trade practices in consumer transactions. Its significance lies not merely in strengthening the preventive function of the law by imposing statutory standards of conduct on traders, but also in enhancing its curative function by providing consumers with statutory remedies and accessible redress mechanisms.

However, an 'information gap' still exists between the highly organised businesses and the ordinary consumers, leading to irrational choices and a failure to identify defects.[3] As consumers often lack the technical knowledge to verify marketing claims, they are inordinately vulnerable to deception. Woefully, the CPA 1999 does not explicitly mandate an 'information duty' on traders, nor does it oblige them to present information in a manner that average consumers can understand.[4] Against this backdrop, this article analyses how the Part II provisions of the CPA 1999 address misleading and deceptive trading conducts, and proposes amendments to safeguard consumer rights and protect their interests.

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1 Stephen Leacock, *The Garden of Folly* (New York: Dodd, Mead and Company, 1924), 81.

2 Nur Rabiatuladawiah Abdul Rahman, "The Rise and Fall of Caveat Emptor in Malaysian Sale of Goods Contract," *Journal of Law and Governance* 1, no. 1 (2018): 1–2.

3 Ibid, 6.

4 Junaidah Zeno, "Information in Consumer Contracts: Reforming Consumer Protection Law in Malaysia," *Asian Journal of Comparative Law* 17, no. 2 (2022): 242, 247.

METHODOLOGY

To evaluate the effectiveness of the CPA 1999 as both preventive and curative legislation, this article adopts Professor Antony Allott's framework, which posits that the potency of law is measured by the degree of compliance. Accordingly, preventive efficacy is gauged by how effectively the law deters the behaviour it intends to disapprove while curative efficacy is measured by the degree to which it serves to restore justice.[5]

Applying this framework, the article assesses effectiveness through three distinct steps. First, to gauge preventive efficacy, it determines whether the CPA 1999's scope encapsulates all forms of unfair trade practices and applies Daniel Nagin's deterrence theory to assess if civil and criminal repercussions are sufficiently dissuasive. Second, regarding curative efficacy, the article analyses if the Act's guaranteed rights and remedies adequately compensate consumers. Furthermore, the article examines whether the Act's enforcement and redress mechanisms, particularly regarding low-value transactions and rural inaccessibility, effectively incentivise consumers to assert their rights. This, in turn, would enhance the certainty and immediacy of deterrence against unfair trade practices, thereby safeguarding consumer interests.

THE STATUTORY SHIELD: DECONSTRUCTING PART II OF THE CPA 1999

Defining the Terms

A consumer in the simplest sense is one who typically acquires goods or services for domestic purposes and not for commercial use in trade or manufactures.[6] By virtue of section 2(1) of the CPA 1999, the Act applies to goods and services offered or supplied to any consumer, including transactions carried out electronically.[7] However, this broad scope is subject to strict exceptions, such as healthcare services and

5 Antony Allott, "The Effectiveness of Law," *Valparaiso University Law Review* 15, no. 2 (1980): 229.

6 Consumer Protection Act 1999, s 3(1).

7 Consumer Protection Act 1999, s 2(1).

professional services regulated by other written laws.[8] In *Siva Prakash Ramasamy v MCIS Insurance Bhd*, the court agreed that insurance policies do not fall within the scope of protection provided in the CPA 1999.[9] The seminal case of *Public Finance Bhd v Scotch Leasing Sdn Bhd* categorises insurance policies as a 'chose in action' together with patents and copyrights, excluding them from the definition of 'goods'.[10] This approach stands in contrast to other jurisdictions. While section 9 of the New Zealand's Fair Trading Act 1986 has a similar wording with the Malaysian CPA 1999, it includes the vital phrase '…in trade.' This specific phrasing, absent in the Malaysian statute, brings a wider array of services under the umbrella of consumer protection to better safeguard vulnerable consumers.[11]

The inapplicability of the CPA 1999, as provided in section 2(2)(e), has consistently been a subject of dispute. The High Court in *Fairview International School Subang Sdn Bhd v Tribunal Tuntutan Pengguna Malaysia & Anor*[12] held that the exclusion in section 2(2)(e) was intended to apply to self-regulating 'professionals' under specific statutes. It does not extend to the institutions employing them, since while section 2(2)(f) explicitly excludes healthcare facilities (institutions), section 2(2)(e) contains no equivalent exclusion for educational facilities.[13]

The Capacity to Mislead: Objective Tests for Deceptive Conduct

Part II of the CPA 1999, comprising sections 8 to 18, protects consumers against misleading and deceptive conduct, false representations, and unfair practices. Section 6 of the CPA 1999 also renders any contractual terms aiming to exclude Part II void.[14] This prohibition extends to 'choice of law' clauses; even where a contract purports to adopt the law of another nation to evade the CPA 1999, the

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8 Consumer Protection Act 1999, s.2(2)(e) and 2(2)(f).

9 *Siva Prakash a/l Ramasamy (As Executor and Trustee for the Estate of Jachiswaran a/l Duroy Selvam) v MCIS Insurance Bhd* [2024] MLJU 2196.

10 *Public Finance Bhd v Scotch Leasing Sdn Bhd* [1996] 2 MLJ 369.

11 Fair Trading Act 1986, s 9.

12 *Fairview International School Subang Sdn Bhd v Tribunal Tuntutan Pengguna Malaysia & Anor* [2015] 9 MLJ 581.

13 Ibid [35].

14 Consumer Protection Act 1999, s 6.

CPA 1999 shall apply where the transaction is sufficiently connected with Malaysia. This prohibition is reinforced by section 4, which specifically addresses 'choice of law' clauses that prevents unscrupulous suppliers from 'contracting out' of their legal obligations, thereby securing the consumer's statutory interests.[15]

Section 9 of the CPA 1999 prohibits conduct that is misleading or deceptive regarding the nature of goods and services.[16] This section is distinct from section 10, which specifically targets false representations regarding particular attributes of the goods, such as their quality, model, or history.[17] Due to the lack of local judicial interpretation of sections 9 and 10 of the CPA 1999, and given their *pari materia* nature with sections 9 and 13 of New Zealand's Fair Trading Act 1986, as well as sections 52, 53 and 55 of the Australian Trade Practice Act 1974, interpretations by the superior courts of those jurisdictions may be deemed highly persuasive in construing the Malaysian legal position.[18] In the landmark case of *Red Eagle Corporation Ltd v Ellis*, the New Zealand Supreme Court moved away from rigid formulas, as previously seen in *AMP Finance NZ Ltd v Heaven*, embracing a flexible, objective assessment tailored to the facts. Actual deception is not required as the test focuses on whether the conduct had the capacity to mislead.[19] Paragraph 29 of the New Zealand Supreme Court judgment states:

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15 Consumer Protection Act 1999, s 4.

16 Consumer Protection Act 1999, s 9.

17 Consumer Protection Act 1999, s 10.

18 *Director-General of Inland Revenue v Kulim Rubber Plantations Ltd* [1981] 1 MLJ 214, 217 'In so far as the decisions of other courts in these and other countries are concerned, we have always treated these judgments as of only persuasive authority, but we have never lightly treated them or refused to follow them, unless we can successfully distinguish them or hold them as per incuriam. Other than for these reasons, we should as a matter of judicial comity and for the orderly development of law, pay due and proper attention to them. In this light we now propose to consider whether the relevant statutory provisions are similar and go on to consider the decisions in the Australian and New Zealand Courts and the Courts in the United Kingdom which have been canvassed before us and some others'; See also *Sundra Rajoo a/l Nadarajah v Menteri Luar Negeri, Malaysia & Ors* [2021] MLJU 943 [44].

19 *AMP Finance NZ Ltd v Heaven* (1998) 6 NZBLC 102,424 (CA).

> "The question to be answered in relation to section 9 in a case of this kind is accordingly whether a reasonable person in the claimant's situation – that is, with the characteristics known to the defendant or of which the defendant ought to have been aware – would likely have been misled or deceived. If so, a breach of section 9 has been established. It is not necessary under section 9 to prove that the defendant's conduct actually misled or deceived the particular plaintiff or anyone else. If the conduct objectively had the capacity to mislead or deceive the hypothetical reasonable person, there has been a breach of section 9. If it is likely to do so, it has the capacity to do so. Of course, the fact that someone was actually misled or deceived may well be enough to show that the requisite capacity existed."[20]

In *Gunton v Aviation Classic Ltd*, the court empasised that the intention to deceive is irrelevant when determining whether the conduct is deceptive; the focus is instead on the impact created by the words used: 'People in trade should choose their words carefully so that wrongful impressions are not conveyed. If they fail to act carefully, they can scarcely complain when others, quite reasonably, are misled.'[21]

A trader is liable for conduct that creates a misleading impression, regardless of any intent to deceive. However, a crucial limitation exists: liability attaches only to actual representations made by the trader, not to assumptions independently formed by the consumer. In *Matang Plastik & Metal Work Industries v Daimler Chrysler*, it was held that a representation must be proven by evidence and cannot be inferred solely from a brand's reputation. The appellant could not by assumptions claim the car was represented as the 'safest' or 'best quality' simply because it was a Mercedes-Benz Model 350-L-V200 without an express statement to that effect.[22] The same principle is illustrated in the case of *ACCC v Kingsland Meatworks & Cellars*, where the first respondent had falsely represented that the meat

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20 *Red Eagle Corporation Ltd v Ellis* [2010] NZSC 20.

21 *Gunton v Aviation Classic Ltd* [2004] 3 NZLR 836 at 244.

22 *Matang Plastik & Metal Work Industries Sdn Bhd & Ors v Daimler Chrysler (M) Sdn Bhd & Ors* [2014] 6 MLJ 244.

sold originated from King Island, thereby constituting an offence and is liable to a penalty.[23]

The Digital Frontier: Attribution and Liability in E-Commerce

In the 21st century, the proliferation of electronic communications introduces new complexities regarding liability. There are concerns that businesses may attempt to evade liability for misleading representations by attributing errors to automated agents or Artificial Intelligence systems.[24]

Section 17 of Electronic Commerce Act 2006 (ECA 2006) provides that:

> As between the originator and the addressee, an electronic message is deemed to be that of the originator if it is sent by: (a) a person who has the authority to act on behalf of the originator in respect of that electronic message; or (b) an information processing system programmed by, or on behalf of, the originator to operate automatically.[25]

An electronic message sent by an automated system is therefore deemed to be that of the originator. The originator cannot avoid responsibility for the message simply because it was generated automatically. Furthermore, under section 6 of the ECA 2006, the originator cannot deny the message's legal validity or enforceability solely because it is in electronic form.[26]

However, establishing attribution does not automatically prove liability for misleading conduct. For goods and services in e-commerce, there is no 'misleading representation' if the terms and conditions are clearly displayed and accessible to the consumer. In *Lee Lai Fatt lwn Busonlineticket*, the plaintiff sued under sections 9 and 10 of the CPA 1999 after a failed rescheduling attempt led to the forfeiture of his bus ticket.[27] The court dismissed the claim, holding that the

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23 *Australian Competition & Consumer Commission v Kingisland Meatworks & Cellars Pty Ltd And Another* [2013] 99 IPR 548.

24 Contact Center Compliance, May 19, 2021 "What Is an Automated Text Message?," Contact Center Compliance, accessed December 5, 2025, https://www.dnc.com/faq/what-automated-text-message.

25 Electronic Commerce Act 2006, s 17(2).

26 Electronic Commerce Act 2006, s 5, 6 (1).

27 *Lee Lai Fatt lwn Busonlineticket Sdn Bhd* [2025] MLJU 2910.

platform had not engaged in misleading conduct because the rescheduling terms were clearly visible on the webpage throughout the transaction, and the rescheduling fee had been duly refunded.[28]

What About Land: Misrepresentation in Property and Land Use

The statutory effects of section 11 of CPA 1999 can be illustrated in the Australian case of *Pryor v Given*, in which an advertisement implied that houses could be built on the advertised land despite the planning approval not yet being obtained.[29] The court held that such advertising amounts to a misleading representation. Meanwhile, the case of *ACCC v Gary Peer & Associates* concerned a price guide for a property. A real estate agency advertised a property price guide of $600,000 which was later revised to $650,000 despite the vendors requiring at least $800,000.[30] The court held that this discrepancy constituted a misrepresentation, a ruling that carries similar legal weight in Malaysia regarding the misrepresentation of goods or land.[31] This decision mirrors the protections in section 11(1)(b)(v) of the CPA 1999, which prohibits false or misleading representations concerning 'the use to which the land is capable of being put or may lawfully be put'.[32]

The Price Tag Trap: Hidden Charges and Economic Sacrifices

Section 12 of CPA 1999 governs the offence of providing a misleading indication as to price. The term 'indication' is defined broadly as 'a sign that something exists, is true, or is likely to happen'.[33] In practice, a price is like an 'economic sacrifice' made in exchange for a good or service, which significantly impacts consumer purchase intention.[34] It is immaterial whether the indication is made by the supplier themselves

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28 Ibid.

29 *Pryor v Given* [1980] AMP 189.

30 *Australian Competition and Consumer Commission v Gary Peer and Associates Pty Ltd* [2005] FCA 404.

31 Ibid.

32 Consumer Protection Act 1999, s 11(1)(b)(v).

33 Cambridge Dictionary, s.v. 'Indication,' accessed December 18, 2025, https://dictionary.cambridge.org/dictionary/english/indication.

34 Gabriel R D Levrini and Mirela Jeffman Dos Santos, "The Influence of Price on Purchase Intentions: Comparative Study between Cognitive, Sensory, and Neurophysiological Experiments," *Behavioral Sciences* 11, no. 2 (2021): 22.

or an agent, or whether the person giving the indication is the one actually supplying the goods.[35] Even if a price indication was accurate when first made but subsequently becomes misleading, the failure to take reasonable steps to prevent consumers from relying on it constitutes an offence.[36]

Similarly, section 14 of Trade Descriptions Act 2011 ('TDA 2011') prohibits making false representations that a price is equal to, lower than, or superior to a competitor's price.[37] When such an event occurs, the burden of proof is on the accused to verify the price's authenticity.[38] To ensure transparency, section 15 of the TDA 2011 mandates that advertised prices must include all eligible government taxes, duties, and charges, unless explicitly stated otherwise.[39] However, despite this requirement and section 8 of the Price Control and Anti-Profiteering Act 2011, which demands full disclosure of charges,[40] the practice of '++' pricing persists, often obscuring the cumulative 16% surcharge, comprising the 6% Service Tax and 10% Service Charge, rather than integrating these costs into the displayed price.[41]

The Lure of the False: Advertisements and Broken Promises

Section 13 of CPA 1999 was introduced to curb bait. advertising. This section provides that it is prohibited to advertise goods at a specific price without the genuine intent to sell them, or without reasonable grounds to believe sufficient quantities can be supplied for a reasonable period.[42] This provision targets 'bait-and-switch' tactics used by sellers in dominant positions.[43] However, the Act provides a statutory defence as a seller is not liable if they can prove they offered to supply

35 Consumer Protection Act 1999, s 12(1) & (2).
36 Consumer Protection Act 1999, s 12(2).
37 Trade Description Act 2011, s 14.
38 Trade Description Act 2011, s 14(2).
39 Trade Description Act 2011, s 15.
40 Price Control and Anti-Profiteering Act 2011, s 8.
41 Michael T Schaper, June 30, 2020, "Misleading Price Advertising in Malaysia Is Still Widespread," *ISEAS - Yusof Ishak Institute*, December 12, 2025, https://www.iseas.edu.sg/wp-content/uploads/2020/05/ISEAS_Perspective_2020_70.pdf.
42 Consumer Protection Act 1999, s 13.
43 Ibid.

equivalent goods or services within a reasonable time, in a reasonable quantity, and at the advertised price, and that this offer was accepted by the consumer.

Similarly, sections 14 and 15 address false representations regarding gifts, prizes, and 'limited' goods, which are tactics often used merely to draw in purchasers without the intent to fulfill the promise. Section 14 prohibits offering gifts or free items without the intention of providing them. If a supplier intends to provide a gift, they must not charge more than the regular price for the goods purchased or reduce their quality or quantity. [44] However, reasonable conditions for the gift(s) such as 'buy 3 free 1' are permitted, provided they are clearly described and conspicuously placed near the 'free offer' expression. Crucially, the print of the condition must be at least half as large as the print used for the 'free' expression.[45] As for section 15, any claim that goods are 'limited' must clearly state the maximum quantity offered for sale and the specific time period or dates of the offer.[46] To illustrate, in *MD Foods PLC v Commissioner of Customs and Excise*, the United Kingdom First-Tier Tribunal upheld and allowed the description 'Limited Edition Pack'. The 'limited' nature was established by the restricted availability period from May to September 1999 and the bespoke butter dish, which was custom-manufactured in Taiwan to specifically fit Lurpak butter.[47]

The case of *ACCC v EDirect Pty Ltd* illustrates the legal effect and application of section 58 of Australia's Trade Practices Act 1974, which is *pari materia* with section 16 of the CPA 1999, concerning demanding or accepting payment without intending to supply.[48] In this case, the court imposed a $2.5 million penalty on EDirect for accepting payments for telecommunication services it had no reasonable grounds to believe it could supply within a reasonable time, or which differed materially from what was promised. This decision reinforces the strict

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44 Consumer Protection Act 1999, s 14(1) & (2).

45 Consumer Protection Act 1999, s 14(3) & (4).

46 Consumer Protection Act 1999, s 15.

47 *MD Foods plc v Commissioners of Customs and Excise* [2001] V&DR 264.

48 *Australian Competition and Consumer Commission v EDirect Pty Ltd* [2012] 296 ALR 769.

liability for demanding payment without the genuine intention or capacity to fulfill the order.

In relation to section 17 of CPA 1999, paragraph 2 of the Consumer Protection (Future Services Contract) (Amendment) Order 2014 defines a future services contract to include: body treatment and beauty; fitness and health; recreational, lodging, and entertainment services; education and personal skill development; maintenance; and other services such as water filtration or crematorium management.[49] For such services, upon cancellation, the suppliers could only charge 5% of the total contract price, the cost of any goods the consumer keeps, or the pro-rated value of services already received.[50] Consequently, distinct 'No Refund' policies are rendered unenforceable, ensuring that consumers are not unfairly locked into unused services.

To illustrate, if a consumer cancels a RM2,500 annual gym membership which includes a yoga mat after 7 months due to the pandemic, the supplier is limited to charging RM125 or the 5% fee, the cost of the mat, or RM1,458.33 for the utilised period.[51] Legally, cancellation takes effect when communicated to the supplier, or if communication is not reasonably practicable, when the intention to cancel is indicated.[52] Consequently, 'No Refund' policies are unenforceable; even special times like COVID-19 pandemic provided no exemption for violating these statutory rights.[53] To protect the economic ideal of a 'perfect market' where consumers possess full

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49 Consumer Protection (Future Services Contract) (Amendment) Order 2014 [P.U. (A) 193/2014], para 2.

50 Consumer Protection Act 1999, s 17(2).

51 Tan Yee Chen, June 15, 2021, "Unfair Terms in Contract vs Consumer Protections – Know Your Right," Fareez Shah & Partners, accessed December 18, 2025, https://fareezlaw.com/latest-topic/unfair-terms-in-contract-vs-consumer-protections/.

52 Consumer Protection Act 1999, s 17(4).

53 Baskaran Sithamparam, July 27, 2020, "National Consumer Complaints Centre Received 1514 Complaints Related to Refunds," Mkini Dotcom Sdn Bhd, accessed December 5, 2025, https://www.malaysiakini.com/announcement/536227.

information,[54] robust rules against misrepresentation are essential to prevent information deficits caused by misleading conduct.[55] An erosion of consumer confidence arising from information deficits in goods and services which is compounded by misleading conduct and fraudulent misrepresentation, could lead to diminished participation in the economy and undermine consumer rights.[56] Thus, section 18 of the CPA 1999 establishes strict accountability for advertising. It provides that where a representation is made in an advertisement, it is deemed to have been made by the person who claims to supply the goods or on whose behalf the advertisement is published.[57]

FINE-TUNING THE CURRENT FRAMEWORK

The Influencer Void: Regulatory Blind Spots in Digital Endorsements

Former US President John F. Kennedy famously orated that consumers have:

> the rights to be protected against fraudulent, deceitful, or grossly misleading information, advertising, labeling, or other practices, and to be given the facts he needs to make an informed choice.[58]

Lamentably, Malaysia's current legislative framework remains inadequate to regulate online influencer marketing, particularly regarding disclosure, transparency, and accountability in paid digital

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54 Peter Cartwright, *Consumer Protection and the Criminal Law: Law, Theory, and Policy in the UK* (United Kingdom: Cambridge University Press, 2001), 45.

55 Geraint Howells, "The Potential and Limits of Consumer Empowerment by Information," *Journal of Law and Society* 32, no. 3 (2005): 349, 355.

56 Ibid.

57 Consumer Protection Act 1999, s 18.

58 John F Kennedy, March 15, 1962, "Special Message to the Congress on Protecting the Consumer Interest," The American Presidency Project, accessed December 18, 2025, https://www.presidency.ucsb.edu/documents/special-message-the-congress-protecting-the-consumer-interest.

endorsements.[59] In Malaysia, platforms like Instagram, TikTok, and YouTube have established influencer marketing as a dominant strategy.[60] However, the CPA 1999 and its subsidiary legislation have yet to define 'influencers' or address the unique nature of algorithm-driven advertising.[61] As the distinction between authentic opinion and commercial endorsement blurs, the lack of clear disclosure standards undermines the credibility of influencer marketing and raises significant concerns of consumer manipulation.[62]

The Identity Crisis: Defining the Modern Influencer

The Malaysian Communications and Multimedia Content Code 2022 defines an influencer as a person or group who:

> either on a personal capacity share their own independent opinions or are engaged and paid by Advertisers (either in cash or other consideration) to advertise products or services on their own social media channels because of their social media influence on Consumers.[63]

This definition impedes effective regulation by failing to distinguish between independent expression and paid commercial promotion, or to address hybrid arrangements where individuals act simultaneously as content creators and brand ambassadors.[64] Unclear

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59 Makhtar Maheran and Abdullah Asuhaimi Farhanim, "Regulatory Framework For Online Businesses In Malaysia," *International Journal of Academic Research in Business and Social Sciences* 9, no. 3 (2019): 427.

60 Jia Weiwei and Bie Yongyue, "Influencer Marketing from the Perspective of Internet Celebrity Economy: A Literature Review and Prospects," *Foreign Economics & Management* 43, no. 01 (2021): 23.

61 Robiaaton Adawiyah Safri and Ani Munirah Mohamad, "Jurisdictional and Choice of Law Issues for E-Commerce in Malaysia," *International Journal of Law, Government and Communication* 10 (2025): 282.

62 Devan Grey, "Navigating Transparency in the Digital Age: An in-depth study of disclosure practices in influencer marketing on social media" (PhD diss., Syracuse University, 2025).

63 Communications and Multimedia Content Forum of Malaysia, *Malaysian Communications and Multimedia Content Code* (2022) pt 5, 10.

64 Yixin Zhang, Libo Liu, and Claire Q. Bi, "Influencer Marketing and Commercialization of Social Media Platforms: How Do Consumers React to Blurred-Boundary Advertisements?," in *PACIS 2022 Proceedings.* (Taipei/Sydney: AIS Electronic Library (AISeL), 2022), 188, https://aisel.aisnet.org/pacis2022/188.

thresholds regarding payment, consideration, audience reach, or commercial intent further render the definition overly broad and difficult to apply in practice.[65] As a result, legal uncertainty persists as to which categories of influencers fall within the scope of advertising regulation and at what point disclosure obligations should arise,[66] as no legislation clearly defined these boundaries.[67] The recent Consumer Protection (Electronic Trade Transactions) Regulations 2024 impose obligations on online marketplace suppliers and online marketplace operators to disclose material information prior to consumer purchase.[68] However, these provisions do not expressly govern influencers, who promote goods without being the primary seller.[69] Consequently, it remains unclear whether influencers fall within the ambit of 'online marketplace suppliers,' leaving them indirectly or ambiguously regulated under the new framework.[70] Malaysia should emulate jurisdictions that have developed coherent and enforceable regulatory models in defining an 'influencer'.

The French Solution: Codifying the Business of Influence

On 9 June 2023, France enacted the French Influencer Law to curb the negative impact of influencer marketing on its consumers.[71] This legislation is further complemented by a Code of Practice for influencers and content creators, which provides accessible guidance

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65 Yogesh K Dwivedi et al., "Setting the Future of Digital and Social Media Marketing Research: Perspectives and Research Propositions," *International Journal of Information Management* 59 (2021): 102168.

66 Ibid.

67 Consumer Protection (Electronic Trade Transactions) Regulations 2024, reg 3(1).

68 Ibid.

69 Nur Amalina Faizol and Nor Fadzlina Nawi, "Arising Legal Concern in Endorsement Practices by Social Media Influencers in Malaysia: A Comparative Perspective," in *Proceedings of the International Law Conference (iN-LAC 2018)-Law, Technology and the Imperative of Change in the 21st Century* (Malaysia: SCITEPRESS–Science and Technology Publications, Lda., 2020), 372–78.

70 Ibid.

71 Laura Aade and Catalina Goanta, "Ban-It-Harderism in European Consumer Law: The Case of the French Influencer Law," *Journal of Consumer Policy* 48, no. 4 (2025): 523.

on legal obligations, rights, and ethical standards in a transparent manner.[72] It defines influencers as:

> Natural or legal persons who, for consideration, mobilise their notoriety with their audience to communicate to the public by electronic means for the purpose of promoting, directly or indirectly, goods, services or any cause whatsoever.[73]

This definition encompasses a wide range of online actors, such as streamers and content creators,[74] and also AI-generated virtual personalities or animated characters capable of shaping audience behaviour or influencing consumer decision-making.[75]

The French Influencer Law addresses the lack of transparency by establishing a targeted statutory framework that expressly captures the diverse business models through which influencers monetise their content. While the accompanying Code of Conduct clarifies that influencer status arises upon the receipt of financial or in-kind consideration for sharing commercial content, the French Influencer Law goes further by embedding this principle within binding legislation, demonstrating a forward-looking understanding of the rapidly evolving nature of influencer marketing.[76]

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72 Ibid.

73 French Influencer Law, art 1. The original version of the definition reads: Les personnes physiques ou morales qui, à titre onéreux, mobilisent leur notoriété auprès de leur audience pour communiquer au public, par voie électronique, des contenus visant à faire la promotion, directement ou indirectement, de biens, de services ou d'une cause quelconque exercent l'activité d'influence commerciale par voie électronique.

74 The Advertising Standards Authority Ltd., March 23, 2023, "Influencers' Guide to Making Clear That Ads Are Ads," The Advertising Standards Authority Ltd., accessed December 13, 2025, https://www.asa.org.uk/resource/influencers-guide.html.

75 Danah M Boyd and Nicole B Ellison, "Social Network Sites: Definition, History, and Scholarship," *Journal of Computer-mediated Communication* 13, no. 1 (2007): 210.

76 Giovanni De Gregorio and Catalina Goanta, "The Influencer Republic: Monetizing Political Speech on Social Media," *German Law Journal* 23, no. 2 (2022): 204–25.

Demanding Full Disclosure of Influencer Advertising

Full disclosure of advertising and marketing relationships is imperative to prevent consumers from being misled in their purchasing decisions.[77] However, no Malaysia statutory provision explicitly requires social media influencers to disclose sponsored content or any material connection with the businesses they promote. This regulatory vacuum is conducive to hidden or covert advertising practices.[78] Hence, influencer content often fails to indicate whether they are sponsored or funded by businesses, even when such arrangements are apparent.[79] This is further aggravated by influencers who review, promote, or endorse products or services which they have not genuinely used or have expertise on, yet omit to disclose these material facts.[80] Looking into other jurisdictions may help develop Malaysia's approach to disclosure obligations and transparency.

THE GOLD STANDARD: MATERIAL CONNECTIONS AND THE US APPROACH

United States of America

In the United States, influencer advertising is regulated primarily through consumer protection law administered by the Federal Trade Commission (FTC). The U.S. approach integrates influencer advertising within the broader prohibition against deceptive or misleading commercial practices under the Federal Trade Commission

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77 Felix Pflücke, "The Case for Increased Responsibility and Liability of Brands in Social Media Influencer Marketing," *Journal of European Consumer and Market Law* 13, no. 1 (2024): 4–11.

78 Faizol and Nawi, "Arising Legal Concern in Endorsement Practices by Social Media Influencers in Malaysia: A Comparative Perspective."

79 Kelsey Tidgewell, "Literal Falsity and the Role of Social Media Influencers," *San Diego L. Rev.* 61 (2024): 725.

80 Ibid.

Act.[81] Material connections between endorsers and advertisers must be clearly and conspicuously disclosed to consumers. [82]

Concept of Material Connection

Under 16 CFR § 255.5(a), a disclosure obligation arises whenever a connection between an endorser and the seller of an advertised product might materially affect the weight or credibility of the endorsement and where such a connection is not reasonably expected by the audience.[83] Material connections are not limited to direct monetary payments; they include the provision of free or discounted products, early access to goods or services, gifts, prizes, or even the possibility of future remuneration or media exposure.[84] A connection must be disclosed when a significant minority of the audience does not understand or expect the existence of such a relationship.[85] In short, a disclosure must be easily noticeable and understandable even by ordinary consumers. The format of the disclosure must mirror the endorsement's delivery: visual claims require prominent visual markers, that are optimised for size, contrast, and duration, while audible claims demand clear, intelligible audio disclosures. For content utilising both modalities, simultaneous disclosure is preferred. Furthermore, the adequacy of these disclosures is judged from the perspective of the specific target audience, ensuring that protections extend to vulnerable groups.

§ 255.5 establishes that disclosures must be sufficiently prominent and intelligible to allow consumers to properly assess the credibility of an endorsement.[86] While full contractual details need not

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81 Taylor Herzlich, May 16, 2023, "Why 'get ready with me' videos have become a booming tiktok genre," NBC Universal Media, LLC, accessed December 14, 2025, https://www.today.com/popculture/get-ready-with-me-grwm-videos-trend-rcna84166.

82 Federal Trade Commission, 'Guides Concerning the Use of Endorsements and Testimonials in Advertising' 16 CFR § 255.5.

83 Ibid.

84 Anne V Maher and Lesley Fair, "The FTC's Regulation of Advertising," *Food and Drug Law Journal* 65, no. Food Drug Law J. (2010): 589.

85 Elena Engel et al., "Social Media Influencers and Adolescents' Health: A Scoping Review of the Research Field," *Social Science & Medicine* 340, no. 2024 (2024): 116387.

86 Keelin Ferris, "An Impossible Task: Enforcing Disclosure Requirements in a Multi-Billion Dollar Industry," *Catholic University Journal of Law and Technology* 33 (2024): 1.

be disclosed, the nature of the connection must be communicated clearly for consumers to evaluate its significance.[87] Influencers must ensure that disclosures are not obscured, ambiguous, or misleading, particularly in digital environments where endorsements may be embedded within personal narratives, lifestyle content, or entertainment-focused formats.[88]

In practice, compliance with these requirements is often achieved through the use of plain and unambiguous hashtags. The U.S. guidance favours hashtags such as #ad**,** #advertisement**,** #sponsored**,** #sponsoredpost, or #workingwith, as these terms are immediately recognisable as signalling commercial content. [89] By contrast, abbreviated or ambiguous hashtags such as #sp or #spon are discouraged, as they may cause confusion within the social media culture.[90] The adequacy of a disclosure is assessed objectively, based on how it is likely to be perceived and understood by the audience in context, rather than on the influencer's subjective intent.[91] Disclosures should appear early in the post and in close proximity to the endorsement itself.[92]

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87 Oluwatosin S Ajibade, "Ethical Challenges in Influencer Marketing: Safeguarding Youth and Vulnerable Audiences," *Iconic Research and Engineering Journals* 9, no. 5 (2025): 978.

88 Roberta De Cicco, Serena Iacobucci, and Stefano Pagliaro, "The Effect of Influencer–Product Fit on Advertising Recognition and the Role of an Enhanced Disclosure in Increasing Sponsorship Transparency," *International Journal of Advertising* 40, no. 5 (2021): 733.

89 Lisa M. Martens et al., January 13, 2017, "Using hashtag #disclosures in social media advertising," National Law Forum, LLC, accessed December 14, 2025, https://natlawreview.com/article/using-hashtag-disclosures-social-media-advertising.

90 Ibid.

91 Lesley Fair, March 15, 2016, "FTC's Lord & Taylor Case: In Native Advertising, Clear Disclosure Is Always in Style," Federal Trade Commission, accessed December 11, 2025, https://www.ftc.gov/business-guidance/blog/2016/03/ftcs-lord-taylor-case-native-advertising-clear-disclosure-always-style.

92 Ruvimbo Musiyiwa and Jenna Jacobson, "Sponsorship Disclosure in Social Media Influencer Marketing: The Algorithmic and Non-Algorithmic Barriers," *Social Media+ Society* 9, no. 3 (2023): 20563051231196870.

CONSUMER RIGHTS ENFORCEMENT: A FRAGILE SHIELD

Established jurisprudence propounds that there are three elements of deterrence: severity, certainty, and immediacy of punishment.[93] Daniel Nagin argues that certainty of detriment, which is the likelihood of suffering from some loss, is more effective than severity, which is the harshness of the detriment, and that certainty's effect pertains almost exclusively to apprehension probability of detriment.[94] For deterrence to work there must be a credible threat of detriment through either criminal sanctions and civil liabilities.[95]

A Slap on the Wrist: Underutilisation of Criminal Sanctions

Section 25 of the CPA 1999 imposes fines up to RM250,000 for corporations, rising to RM500,000 for repeat offences. Individuals face up to RM100,000 or three years' imprisonment, increasing to RM250,000 or six years for subsequent convictions.[96] While the legal framework exists, enforcement mechanisms fail to provide a genuine deterrent for businesses. Referring to the Ministry of Domestic Trade and Cost of Living (henceforth known as KPDN) statistics in 2025, although there were 109 prosecutions, the average fine imposed was a mere RM1,331.83,[97] which is considered a negligible amount for businesses, and a fraction of the maximum threshold for penalties. Hence, KPDN must be more stringent in their enforcement by increasing the fines meted out, which has been underutilised so far.

Civil System: Consumer Redress Mechanisms

A redress mechanism in its ordinary meaning is a system that provides remedy or compensation in the case of loss. Although Part II of the CPA 1999 lists out what is included as misleading and deceptive conduct, there needs to be an avenue for consumers to enforce their

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93 Aaron Chalfin and Justin McCrary, "Criminal Deterrence: A Review of the Literature," *Journal of Economic Literature* 55, no. 1 (2017): 5, 12.

94 Daniel S Nagin, "Deterrence in the Twenty-First Century," *Crime and Justice* 42, no. 1 (2013): 199.

95 Ibid, 201.

96 Consumer Protection Act 1999, s 25.

97 Ministry of Domestic Trade and Cost of Living, 2025, "Statistik Utama KPDN," KPDN, accessed December 11, 2025, https://www.kpdn.gov.my/ms/media-utama/penerbitan/statistik-utama-kpdn.

rights against such behaviour. While Malaysia has established specialised bodies for specific industries, the Tribunal for Consumer Claims (henceforth known as TCC) serves as the primary general body wielding statutory powers under the CPA 1999. As such, the TCC shall be the focus of this article.

Jurisdiction of the Tribunal

The TCC was established under section 85 of the CPA 1999[98] for the primary purpose of diverting the court's backlog of consumer complaint cases. The TCC wields significant jurisdiction, hearing most consumer claims despite the restrictions set out in section 2(2) of the CPA 1999. By virtue of sections 98 and 99 of the CPA 1999,[99] The TCC presides over claims regarding goods and services where no redress mechanism is provided and the maximum award sought is RM50,000. Naturally, exclusions apply to specific matters such as the recovery of land, wills, goodwill, choses in action, intellectual property, and disputes where designated tribunals exist. Section 100 of the CPA 1999 further allows parties to mutually agree to grant the Tribunal jurisdiction over their dispute even if it falls outside these statutory boundaries.[100]

The TCC has substantial authority as its members are appointed by the Minister of Domestic Trade and Cost of Living.[101] TCC members are required to have a legal background, typically officers from the judicial and legal services, ensuring decisions are legally sound. Much like the civil courts, decisions made by the TCC are highly transparent, as all proceedings are open to the public.[102]

The TCC being a tribunal ensures procedural fairness by prohibiting legal representation at hearings.[103] This restriction levels the playing field by neutralising the financial advantage of corporations. By virtue of section 104 of the CPA 1999, when a claim has already been lodged with the Tribunal and commenced, the claim cannot be brought before any court unless the claim is withdrawn,

98 Consumer Protection Act 1999, s 85.
99 Consumer Protection Act 1999, ss 98 and 99.
100 Consumer Protection Act 1999, s100.
101 Consumer Protection Act 1999, s86(1).
102 Consumer Protection Act 1999, s109.
103 Consumer Protection Act 1999, s108(2).

abandoned or struck out.[104] Consumers need not fear a 'David and Goliath' situation, as companies must be represented by a full-time paid employee rather than top-tier external counsel. The TCC is further empowered to mete out criminal penalties for noncompliance with the awards made by the TCC, with a fine capped at RM10,000 and imprisonment of 2 years, followed by a daily fine of between RM100 to RM5,000 for continued persistence.[105] This solidifies the authority of the TCC as a quasi-judicial body.

Efficiency of the Tribunal

To quote Justice Mary Lim: 'The tribunal was created to give fair and speedy justice for the aggrieved consumer.'[106] Although the TCC aims to be a speedy redress mechanism, it is notably inefficient, as it suffers from protracted delays. The 2024 KPDN Annual Report reveals that 530 cases were unresolved even beyond the 2 months statutory time limit,[107] which destroys the immediacy of the remedy.

[104] Consumer Protection Act 1999, s104.

[105] Consumer Protection Act 1999, s117.

[106] *Su Tiang Joo v Tribunal for Consumer Claims & Anor* [2021] 1 MLJ 411.

[107] Kementerian Perdagangan Dalam Negeri dan Kos Sara Hidup, 2025, "Laporan Tahunan 2024," Kementerian Perdagangan Dalam Negeri dan Kos Sara Hidup, accessed December 11, 2025, https://www.kpdn.gov.my/images/2025/laporan-tahunan/KPDN-AR2024.pdf .

Table 1: Latest Statistics of Consumer Claims Resolved by the TCC as of 2025

State	Claims Filed	Average Claim (RM)[a]	Claims per 1k population[b]	Complaints per 1k population[b]	GDP per capita[c] (RM)
Kelantan	70	6,363.08	0.04	0.27	14,492.82
Perlis	37	10236.29	0.12	0.31	21,300.13
Sabah	162	8,436.78	0.04	0.27	22,129.19
Kedah	165	10,044.14	0.07	0.35	23,241.50
Terengganu	50	7,137.91	0.04	0.26	30,637.11
Perak	208	7,746.64	0.08	0.46	32,062.89
Johor	599	5,131.50	0.14	0.51	35,237.35
Pahang	139	5,803.74	0.08	0.36	38,697.25
N. Sembilan	163	7,625.58	0.13	0.61	41,671.25
Melaka	170	8,483.98	0.16	0.67	44,592.35
Selangor	867	5,974.43	0.12	0.94	54,824.14
Sarawak	99	6,945.81	0.04	0.32	56,269.99
Pulau Pinang	392	5,863.81	0.22	0.74	64,302.67
WP Labuan	14	965.49	0.14	0.62	80,428.14
WP Kuala Lumpur/Putrajaya	1,969	5,797.17	0.90	2.30	113,582.19
Total / national average	**5,104**	**6,264.96**	**0.15**	**0.65**	**44,504.56**

[a]Calculated by dividing the total value of claims by the number of claims filed in Q2,2025; derived from KPDN MainStatistics 2025,

[b]Claims and complaints ratios are calculated using KPDN Main Statistics 2025 data divided by total population figures from the Department of Statistics Malaysia open data portal.

[c]Calculated by dividing Annual Real GDP by State & Economic Sector by total population (Department of Statistics Malaysia).

Synthesising data from Malaysia's official population census,[108] KPDN statistics,[109] and the Annual GDP by State,[110] **Table 1** illustrates the relationship between GDP per capita (to indicate the level of the State's development) and the frequency of claims filed with the TCC. There is a positive correlation (0.80) between a state's GDP per capita and the volume of claims filed. As a state becomes more developed, the number of tribunal claims rises significantly. This trend is far more pronounced for general complaints, with a correlation coefficient of 0.85. In Kuala Lumpur and Putrajaya (GDP per capita RM113,582), the filing rate is 0.90 claims per 1,000 population. In Kelantan (GDP per capita RM14,492), the filing rate is a mere 0.04 claims per 1,000 population. Residents in affluent states are 22.5 times more likely to file a claim than those in the poorest states. We can infer that the TCC is primarily utilised by developed communities, likely due to better legal awareness and accessibility to legal redress mechanisms.

Remarkably, while more developed states file more claims, they file for smaller amounts. There is a negative correlation (-0.58) between wealth and the value of claims. In less developed states like Kedah, the average claim is high (RM10,044). This suggests consumers there only utilise the TCC for major financial losses. In high-income Kuala Lumpur, the average claim drops to RM5,797, and in Penang, it is RM5,863. As communities develop, they become less tolerant of smaller losses. They are willing to engage the legal system for lower-value disputes, in contrast to someone from a less developed community who might simply write the dispute off as a loss.

As per the Bank Negara Malaysia (BNM) Annual Report 2024, e-money being a widely used mode of payment has an average transaction size of RM33, the mean value of everyday purchases.[111] While the TCC successfully services the middle tier of consumer disputes (averaging RM6,264), it is structurally maladroit regarding the

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[108] Department of Statistics Malaysia, July 31, 2025, "Population Table: States," data.gov.my, accessed December 11, 2025, https://data.gov.my/data-catalogue/population_state.

[109] Ministry of Domestic Trade and Cost of Living, "Statistik Utama KPDN."

[110] Department of Statistics Malaysia, July 2, 2025, "Annual Real GDP by State & Economic Sector," data.gov.my, accessed December 11, 2025, https://data.gov.my/data-catalogue/gdp_state_real_supply.

[111] Bank Negara Malaysia, "Promoting safe and efficient payment and remittance services," in *Annual Report 2024*, 2025, 1.

quotidian transactions, due to it being economically irrational for the consumer. While the procedure to file for a claim at TCC could be done online at their official website, [112] extensive documentation and paperwork must still be done. When push comes to shove, the hearing would still take place physically, instead of being conducted online. Pairing with the cost of commuting, the entire process might cost more than the claim sought by the aggrieved parties.

To reprise, current avenues for consumer redress are evidently not effective in incentivising consumers to seek redress. The TCC fails to deliver on its promise of speedy and accessible justice, as the process is economically impractical for everyday disputes, especially for rural communities that are largely uninformed of their rights.

Lessons from the East: The Punitive Deterrence of the Chinese Model

As Charlie Munger aptly quipped: 'Show me the incentive, and I will show you the outcome.'[113] The Chinese legal framework employs a high-severity punitive regime that scales according to the gravity of the offence. As per Article 55 from the Law of the People's Republic of China on the Protection of Consumer Rights and Interests, if a business operator engages in fraudulent conduct while providing commodities or services, they must upon the request of the consumer, refund the cost and pay punitive damages equal to three times the price. To address low-value claims, the law guarantees a minimum penalty of 500 Yuan regardless of the item's price. When defective goods cause death or serious health damage, victims may claim punitive damages of up to two times the losses suffered.[114] This deterrence is further escalated for edible consumer goods. Article 148 of the Food Safety Law of the People's Republic of China stipulates that producers or sellers of food failing to meet safety standards face punitive damages of ten times the

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[112] Tribunal for Consumer Claims Malaysia, August 29, 2024, "Prosedur Pemfailan Dan Pendaftaran Tuntutan Di Tribunal Tuntutan Pengguna Malaysia (TTPM)," KPDN, accessed December 12, 2025, https://ttpm.kpdn.gov.my/Prosedur_Pemfailan.html?lang=en.

[113] Charles T Munger, "The Psychology of Human Misjudgment," in *Poor Charlie's Almanack: The Wit and Wisdom of Charles T. Munger*, ed. Peter D Kaufman (Walsworth Publishing Company, 2008), 450.

[114] Law of the People's Republic of China on the Protection of Consumer Rights and Interests 2013, art 55.

price or three times the loss, with a guaranteed minimum compensation of 1,000 Yuan if the price is of a small value. [115]

The divergence in these legal frameworks creates vastly different behavioural incentives. Under the Malaysian framework, if a business sells 100 defective items at RM30 each and only one consumer pursues a claim, the business refunds RM30 while retaining RM2,970 in illicit profit. There is no economic pressure to rectify the systemic issue. Under the Chinese system, minimum penalties override standard multipliers to ensure that sanctions remain punitive even for inexpensive goods. For instance, consider a business that defrauds a consumer on an item valued at 50 Yuan. Under a standard multiplier rule, a threefold penalty would amount to only 150 Yuan, which may be insufficient to deter the malpractice. However, Article 55 imposes a mandatory statutory floor of 500 Yuan, effectively raising the penalty to ten times the transaction value. This deterrent effect is further amplified for edible consumer goods under Article 148 of the Food Safety Law. A safety violation involving the same 50-Yuan item triggers a minimum penalty of 1,000 Yuan, which far exceeds the standard ten-times multiplier. By ensuring that penalties for even the smallest infractions are disproportionately severe, the Chinese framework renders predatory practices economically irrational. Hence consumers are strongly incentivised to seek redress as they receive significantly more than what they are owed, transforming their grievance into a 'legislated bounty'.[116]

SUGGESTIONS AND RECOMMENDATIONS

To revitalise the CPA 1999, this article proposes a 'hybrid reform strategy' that integrates the punitive deterrence of the Eastern model with the regulatory precision of the Western model. Currently, the average fine imposed on businesses is a negligible RM1,331.83, which fails to deter malpractice. Hence, KPDN must ramp up their enforcement efforts to better serve their intended purpose. Simultaneously, Malaysia could adopt China’s framework to provide

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115 Food Safety Law of the People's Republic of China 2015, art 148.

116 André Janssen and Jia Wang, “Punitive Damages under the New Chinese Civil Code–a Critical and Comparative Analysis,” *Asia Pacific Law Review* 29, no. 2 (2021): 346, 353.

economic incentives to consumers in asserting their rights. The TCC should be empowered to grant multiplier awards and minimal thresholds for compensation. By ensuring that the awards are exponential relative to the cost of cheap defective goods, the law thereby actively policing the market against systemic misconduct involving low-value necessities. The CPA 1999 requires amendments to statutorily define the modern influencer to protect consumers against false or misleading advertising. Explicitly categorising them as commercial entities will impose the same liabilities as traditional advertisers. To eliminate covert advertising, the Act must enforce specific disclosure standards such as the US Federal Trade Commission's 'Material Connection' standard which legally mandates that any connection affecting the credibility of an endorsement be disclosed.

CONCLUSION

The CPA 1999 has been a vital legal shield for Malaysian consumers, but its practical effectiveness is hindered by significant enforcement gaps. While the TCC was designed to provide easy justice, data shows it primarily benefits developed urbanites and is inefficient for the small, daily transactions that matter most to average citizens. Furthermore, the Act lacks the 'punitive bite' necessary to deter unfair trade practices, as current sanctions are often viewed merely as a business cost rather than a punishment, unlike the severe punitive damages mandated in jurisdictions like China. The current legislation has not kept pace with the digital age, leaving a regulatory vacuum regarding modern issues like undisclosed influencer marketing. Ultimately, while the CPA 1999 is a strong foundation, the authors argue it requires urgent amendments, specifically stricter penalties and digital updates, to truly safeguard consumer interests.

FUNDING DECLARATION

The author(s) received no financial support for the research and authorship of this article.