
Consumer Protection over Soft Issues Relating to Online Advertising in Malaysia

Nur Hidayah bt Ab Aziz

Master of Laws (Research) (Specialization: Commercial Law)

Faculty of Law, Universiti Teknologi MARA, Shah Alam

ABSTRACT: The emergence of the Internet has been currently affecting a number of areas in the business world including advertising. The increase of online advertisements in recent years shows that online advertising has become the preferred choice of marketers to establish their brands to all-encompassing consumers regardless of location, age, and institution. While online advertising offers huge opportunities in business-to-consumer (B2C) activities, it triggers many complex issues which necessitate legislative interference in the perspective of consumer protection. The prevalent issues are soft issues which revolved around threats to personal values, safety, behaviour and economic decisions of the consumer, including indecent and obscene advertising contents, the superfluous use of women in advertisements, advertisements targeted at children, as well as soft issues relating to online advertising of medicines and medical services. Unlike advertising in the real world, the threats offered by online advertising are deemed greater due to the global nature of the Internet and its evolving infrastructure. Therefore, the law should work in parallel with the current Internet infrastructure in order to ensure that it can be applied to online advertising and tackle the emerging soft issues affecting the consumer. This paper reviews the prevalent soft issues and the extent to which the existing Malaysian laws are adequate in protecting consumers in Malaysia.

KEYWORDS: *consumer, consumer protection, online advertising, soft issues, Internet, Malaysia*

INTRODUCTION

The Internet has really open up new opportunities for advertising businesses. As websites were developed into online businesses, online advertising has become increasingly refined and extraordinarily competitive. Consumers around the world are greatly depending on the Internet to get information about goods and services on sale, especially on a particular business website. A study by Nielsen (2013) reveals that the consumer's trust in online advertising is increasing significantly. 69% of respondents said they trust advertisements on branded websites, which makes branded websites as the second most trusted advertising format in 2013, after word-of-mouth recommendations from friends and family. For other online advertising, almost half (48%) said they trust advertisements in search engine results, online video advertisements and advertisements on social networks. This growth is due to the rapid rise of the Internet usage and its popularity as a medium of communication and commerce.

The evolution of the Internet however, raises more complex consumer issues and challenges often not raised by offline advertising which affects the existing areas of the law by determining it at the level of either legal provisions or a practice that is positioned in gray area. The prevalent issues are soft issues which revolved around threats to personal values, safety, behaviour and economic decisions of the consumer. They are vague, volatile, and very subjective. For examples, there are concerns that the lack of transparency in online advertising has increased the availability of indecent and obscene advertising contents, the superfluous use of women in advertisements, advertisements targeted at children, and irresponsible advertisements of

medicines and medical services. Practices of using celebrities or associating products with unreal ideas of ideal beauty, lifestyles, love and sex, promising that the products would provide satisfaction in the areas might threaten consumers particularly vulnerable populations like children and women because they take advantage of the groups' susceptibility. Not only that such practices influence people to buy things that they do not need but also promote undesirable values. The Malaysian Communications and Multimedia Commission (MCMC) had received many complaints regarding online advertisements containing sexual contents or advertisements that portray women as sex objects. A total of 133 cases relating to indecent, offensive, obscene, menacing emails, websites or blogs were reported in 2010 (MCMC, 2010). As advertising can be a powerful force in shaping human values, this situation is really worrying. What is more, the soft issues are often vague, volatile, and poorly-understood by most people.

The rationales for protecting consumers in the sphere of online advertising are to some extent complex. The technology advancement, in essence, increases the propensity of the sellers to abuse their position. The threats offered by online advertising is deemed to have its root from the Internet infrastructure that is being developed to better serve advertisers in their attempts to deeply engage consumers in every products being sold (Mierzwinski, 2010). Thus, unlike advertising in the real world, the emerging consumer issues are the result of an increase of the consumer vulnerabilities as a result of the nature of the Internet itself and its evolving infrastructure. One major development that changes the Internet infrastructure was the World Wide Web, where electronic commerce globally emerged to allow interactive buying and selling over the Internet. The recent emergence of a wide variety of online advertising methods especially search engine and social media is also a proof that new uses for the Internet infrastructure are persistently built at an increasing pace. Hence, there is little doubt that the law in cyberspace faces challenges in the context of consumer protection especially when dealing with soft issues that are highly dependent upon how they are perceived by the consumers. The current law should be able to work in parallel with the current Internet infrastructure in order to ensure that it can be applied to online advertising and tackle the emerging soft issues affecting the consumer.

This paper seeks to examine the existing Malaysian law relating to soft issues in online advertising and to determine the extent to which those laws are adequate in protecting consumers in Malaysia. It first provides an overview of the development of online advertising in Malaysia and follows by the main discussion on the consumer protection over soft issues relating to online advertising in Malaysia including the protection afforded by the statutory legislations, guidelines, and codes of practice.

AN OVERVIEW OF THE DEVELOPMENT OF ONLINE ADVERTISING IN MALAYSIA

In general, advertising refers to any paid form communication about an organization, its products, and/or services through mass media by an identified sponsor (Brown, 2007). An 'advertisement' is defined in Part 3 of the Malaysian Communications and Multimedia Content Code as 'an announcement of a public nature whether for the sale or purchase or provision of goods or services or constituting of an invitation to participate in an activity and conveyed by or through any signage, image or sound disseminated through electronic medium for advertising purposes'. In business practice, advertising embraces a commercial transaction. It is a means of promoting goods and services to consumers. A range of communication mediums is used to promote the marketing messages including via television, radio, magazines, newspapers, billboards, and the Internet. Although the medium used by advertisers are myriad, they have a common goal to persuade potential customers to buy their products. Precisely, advertisers are typically trying to inform, persuade, remind, or to build brand awareness or brand loyalty by delivering information, bombast, and/or imagery to the consumers (Pindick & Rubinfeld, 2009).

Online advertising, as the name implies, refers to any advertising activity conducted over the Internet. Nowadays, advertising is not only used by marketers to promote products on sale, but to attract consumers from all over the world to visit their websites. Moreover, with the rise of e-commerce, consumers not only can see what goods or services are on sale and where to get them, but they can now shopping online at home without having to visit retail stores. Thus, there is little doubt that online advertising has gained special popularity and become an important component in today's business strategy.

The advertising industry in Malaysia is not exempted from this revolution. Although online advertising is relatively new in Malaysia and not as popular as in the West, it has influenced advertising landscape in Malaysia like never before. Research has proven that online advertising in Malaysia is growing rapidly and is taking business away from traditional modes of advertising such as radio, television, magazines, and newspapers. The MCMC (2009) reported that the Internet has greatly transformed traditional advertising media to online channel. According to a recent study by Asia Digital Marketing Association (2012), online advertising revenues in Malaysia totaled \$17 million in 2011 (92.8%). The sturdy growth was due to an explosion in advertising on Google sites. It was also found that the key reason for this growth was due to the evolution of a wide variety of online advertising methods that have the ability to provide desirable benefits to both marketers and consumers in numerous ways. For marketers, it is well established that online advertising reduces cost and time, minimizes effort, and gives greater potential of reaching a large market. There is also some evidence that online advertising increases demands and sales (Gaffney, 2001). The benefits to consumers include the opportunity to gather large product information via a simple click, and time savings. At the same time, consumers can benefit from greater product choice and lower costs.

Indeed, online advertising is a new phenomenon in Malaysia but due to its laudable nature and traits as well as its potential to be a pivotal vehicle for economic growth, it is envisaged that it will continue rising and becoming the preferred choice of marketers to establish their brands to all-encompassing consumers regardless of location, age and institution.

CONSUMER PROTECTION AGAINST INDECENT AND OBSCENE ADVERTISING CONTENTS

As online advertising can appear without curb and filtration, advertisers are free to display advertisements which contain depraved sexual content. Sexual content in advertisements is not only detrimental to people, but is immoral. The content is strictly against the moral and cultural values especially for the Muslims community (Azila Alya Dahalan, 2007). Sex appeal advertising may also encourage eating disorders or other practices to become slim and attractive among female teenagers, while male teenagers may see women's sexy image as a sex object, which is degrading to women (Korn, 2006). Hence there is a need to protect consumers especially female consumers through legislative intervention. At present, the primary legislation governing indecent and obscene advertising contents on the Internet is the Communications and Multimedia Act 1998 (CMA) under the jurisdiction of the Ministry of Information, Communication and Culture. The CMA regulates advertisements to the extent that the advertisements are provided by service providers licensed under the CMA.

Section 211 of the CMA prohibits any content applications service provider or persons using a content applications service from providing content which is obscene, indecent, false, menacing or offensive in character with the intent to annoy, threaten, abuse, or harass any person. In the same premises, Section 233 prohibits any person by means of any network facilities or network service or applications service to knowingly make, create or solicit, and initiate the transmission of any request, comment, suggestion or other communication which is indecent, obscene, false, menacing or offensive in character with intent to abuse, annoy, threaten or harass any person, and also prohibits any person from initiating a communication using any

applications service with or without revealing his identity and with intent to abuse, annoy, threaten or harass any person at any electronic address or number. In this respect, Section 211 and 233 imply that marketers are not free to publish advertisements that are false, misleading, indecent or offensive in nature. Indeed, there should be some forms of limit to the freedom of the Internet especially in the context of commercial advertising. Leaving the Internet completely free from control will open the Internet to abuse which eventually leads to an increase of unacceptable advertisements in the online marketplace.

Pursuant to the Act, the Malaysian Communications and Multimedia Commission (MCMC) was established as an industry self-regulatory body which is empowered with the role of promoting and regulating the communications and multimedia industry and to enforce the communications and multimedia laws in Malaysia. The MCMC is empowered to design a content forum. The content forum is empowered to formulate and implement a code of practice known as the Malaysian Communications and Multimedia Content Code for dealing with offensive or indecent content. The Content Code defines 'online' as 'a networked environment available through a connection to a network service where content is available to the public for access for a fee or otherwise and which originated from Malaysia'. It is clear that the jurisdiction of the Code is limited to advertisements based in Malaysia only. Foreign hosts or locals registering abroad would not be subjected to the Code even if an advertisement is targeted at Malaysian consumers. For example, if an indecent or obscene advertisement is published in eBay site which is based in Hong Kong, the Code would not apply. This would definitely constitute a major weakness of the Code as many complaints received by the Complaints Bureau are pertaining to foreign websites. The Content Forum, however, may refer the complaints to the MCMC for appropriate action. For instance, in 2010, the Complaints Bureau had received a complaint alleging that a foreign website's content was degrading to women and exposed children to indecent materials. The matter was referred to the MCMC for action (Communications and Multimedia Content Forum, 2010). Nevertheless, the problem was unsolved as although the MCMC has the power to consider matters involving foreign websites, it could not identify the owner of the websites as well as the actual offender. In reality, most websites do not contain information of the owner such as name or other personal information. As online businesses have no office building/address, it is indeed difficult to identify or trace the offender. Thus, actions such as removal of contents from websites or blocking of particular websites from public viewing could hardly be taken.

As expressed in the Code itself, advertisements containing illegal content or offend good taste or decency and public feeling, or is likely to encourage crime or lead to disorder, or is abusive or threatening in nature are prohibited. The Code also prohibits advertisements containing sexual scenes. These prohibitions are strict especially in the context of Malaysian culture that practices Eastern values. Any amount of sexual content will not be tolerated and is considered pornographic under any circumstances (Ida Madieha Azmi, 2004). With regard to the use of women in advertisements, the Code lays down two requirements. Firstly, advertisements must show positive images of women. Secondly, women must not be depicted as objects for sex or merely to satisfy men's desire. It must be said that these requirements are well designed and adequately address the concern on women's degradation in advertisements.

Another Act that could protect consumers against indecent and obscene advertising is the Penal Code. The Penal Code provides for the law on the offence of publication of obscene materials. By virtue of Section 292, the Penal Code not only deals with obscene materials in the physical medium such as books, newspapers and pamphlets, but covers obscene materials available on the Internet. However the Penal Code does not define the term 'obscene' and this may constitute a major weakness of the Act. The Penal Code merely provides the circumstances in which 'obscenity' is an offence. Arguably, the term 'obscene' must be defined

and understood at the outset in order to constitute an offence under the Penal Code. A problem that can arise due to the absence of definition of 'obscene' or 'obscenity' in the Penal Code is the lack of proper yardstick to determine the severity of obscenity as an offence. No doubt, the undefined term of 'obscene' in the Penal Code poses difficulties in the interpretation and prosecution. This may result in the law becoming unenforceable and ineffective. Thus, the right move is to give proper definition to the term 'obscene'. The definition must first consider what the community deems as proper. The 'community' standard should be interpreted within the context of the Malaysian society. When it comes to obscene material, it is more of a question of moral rather than taste. To Muslims, for instance, any sexual act, image, or object is against morality. Therefore, what constitutes 'obscene' should not be subjective but so long as the material is considered to be obscene by the local community, that material is obscene. One issue of concern here is how the Internet has an effect to the community standards, when a material published on the Internet can be viewed worldwide? The answer is outright; the standard should be read in the context of Malaysia even though the publisher is from outside Malaysia. Another aspect that the regulator has to shed light on regarding the definition of 'obscene' is that the definition should not confine to sexually explicit material but anything which corrupts or likely to corrupt the morals of the community, regardless of whether the material is sexually degrading, explicit or non-explicit. Thus, the key is the potential harm to the community.

In addition, it is pertinent to note that in the case of a third-party website, if the website is disseminating obscene material but the website owner has no knowledge of the obscene material, the website owner will still be liable as knowledge or intention is irrelevant. Thus, both the creator of the obscene material that is being disseminated and the website owner shall be liable.

It is clear that the Penal Code criminalizes publication of obscene materials on the Internet but only to the extent that the publication is actual. If a person possesses data that is obscene, with a view to place it on a website for the purpose of commercial advertising, he will not be guilty. In light of the UK Obscene Publications Act 1959 and 1964, mere possession of obscene materials with a view to publish them for gain is an offence. Thus, Malaysia should implement a similar provision to give wider protection to consumers.

Meanwhile, the specific law on indecent advertisements can be found in the Indecent Advertisements Act 1953. Nonetheless the Act is outdated and very loose in many aspects. First, the Act applies to Peninsular Malaysia only. This is unfeasible especially with regard to online advertisements where place is totally irrelevant. Most regrettably, by virtue of Section 3, the Act excludes its application to non-printed advertisements. Thus, the Act fails to offer any protection to consumers in the sphere of online advertising. The legislature indeed fails to give adequate consideration to the modern business practices especially via electronic medium.

LEGAL PROTECTION TO CHILDREN CONSUMERS

Many concerns have been articulated about the children's vulnerability to online advertising. Children are more vulnerable to online advertisements than adults because they often do not understand the persuasive intent of advertisements and lack the cognitive skills to distinguish between commercial and program content. In relation to food advertising on the Internet, major criticisms centered on its harmful health effects and the broader issue of consumerism. Today, many food marketers designed sophisticated websites to target directly towards children to become brand loyal. For examples, brands such as McDonald's and KFC feature kid's section, incorporate games, cartoon characters, promotions, and membership clubs in their websites. Such advertising practices have the ability to increase brand name, children's exposure time to the product, and ultimately their purchase requests for food, beverage and

toys. In a comprehensive study by Chapman, Kelly, Bochynska, and Kornman (2008), results showed that eating disorders and obesity are the most associated health problems among children possibly caused by food advertising on children's websites. Beyond that, the worst argument is that advertising promotes a materialistic or consumerist mentality which is detrimental to children (Graboviy, 2011).

In addition, there are risks associated with social media advertising to children. In spite of amusing attributes such as modern and classy ways of creating one's personality and boundless sharing of social experiences, social media networks also impose risks especially for children to becoming the target of third-party advertising groups (Livingstone & Brake, 2010). Display of various advertisements such as banner advertisements, behaviour advertisements (advertisements that target people based on their surfing behaviour), and demographic-based advertisements (advertisements that target people based on a specific aspect such as age, gender, education etc) not only pessimistically influence children's purchasing decisions but also their personalities (O'Keeffe & Clarke-Pearson, 2011). These widespread concerns regarding children's vulnerability to online advertising certainly need safeguards by law for the protection of future generations.

One piece of regulatory framework which is crucial in safeguarding children against the harmful effects of online advertising is the Malaysian Communications and Multimedia Content Code. The Code requires special care and attention to be given to children in advertisements. Two important concerns are raised with respect to children's content namely relating to their safety and security. First, the Code provides that the use of children is not encouraged unless the products advertised are relevant to them or for the purpose of promoting their safety. This provision seems to be less strict as children can still be used in advertisements even if the products advertised are not relevant to them as the use of children in advertisements is simply 'not encouraged' under the Code. Secondly, in the context of security protection for children, it is worthy to note that the Code prohibits any content that will result in harming the children or young people, mentally, physically, morally, or exploits their credulity, lack of experience or natural sense of loyalty. Be that as it may, it is unfortunate that the Code does not address the issue of child-targeted advertising through websites. The Code fails to take into account the impact of the Internet to children. As emphasized, children have less capacity to differentiate between advertisements and other contents. It is also impossible for parents to consistently watch their children online. Thus, it is strictly unfair to ensnare children with such advertising and thereby exploit their credulity, immaturity and integrity.

On the other hand, the Food Act 1983 and Food Regulations 1985, the principal legislations regulating various aspects of food safety in Malaysia, provide for the protection of consumers in relation to food advertising. However the legislations merely deal with hard issues such as false and misleading advertising. Soft issues concerning food advertising such as harmful effects of advertising to the health of the consumers at large and to the morals of children are not covered. Adequate consideration should be given to these issues including prohibiting all forms of commercial communication for food directed at children on the Internet. Alternatively, the use of cartoon characters with interactive games and contests should be prohibited. All the more, provisions concerning children should not be restricted to the use of children in advertising per se, but should cover all advertisements addressing, targeting, and featuring children.

CONSUMER PROTECTION IN ONLINE ADVERTISING OF MEDICINES AND MEDICAL SERVICES

The Medicines (Advertisement and Sales) Act 1956 is a specific legislation dealing with advertising of medicines and medical matters empowered by the Pharmaceutical Services Division of the Ministry of Health. Nonetheless, it has to be acknowledged that the Act just generally regulates online advertising. Most conspicuously, the definition of 'advertisement' in

the Act does not explicitly set out the Internet as a medium of advertising as essentially the same way as traditional advertising such as radio, television and newspapers. Section 2 merely defines an 'advertisement' as including 'any notice, circular, report, commentary, pamphlet, label, wrapper or other document, and any announcement made orally or by any means of producing or transmitting light or sound'.

The Act provides for the establishment of the Medicine Advertisements Board (MAB) which is responsible for the regulation of all medical-related advertisements including creating policies and guidance on advertisements. Advertisements, including online advertisements, regardless of containing medical claims or not must obtain approval by the MAB before being published. Though, with regard to judicial enforcement, there is a hurdle in the Act that may hamper the efforts to prevent illegal and harmful medical advertising. It is explicit that the MAB can only bring a legal action in court if there is a consumer complaint and the prosecution is sanctioned in writing by a public prosecutor. This in effect means that before an advertiser can be charged in court, there must be a complaint and the MAB has to get a written consent from the public prosecutor, otherwise it cannot instigate a legal action. As legal actions are complaint-based, there is possibility that defiant advertisers might escape from legal responsibility. This limitation may indeed hamper adequate regulation of advertising of medical products.

Section 5 (3)(b) of the Act also raises a disputed issue. It provides that if an advertisement is not directed at the public but is directed at certain classes of persons namely medical practitioners, dentists, nurses, midwives, pharmacists, and those undergoing training as registered medical practitioners, dentists, nurses, midwives and pharmacists, the advertiser can escape liability. Whether an advertisement is in fact directed at the public is not easy to determine. For example, whether a website containing health and medicinal advertisements created for medical practitioners and pharmacies but can be freely viewed and read by the public at large falls within Section 5 (3)(b)? Whether the advertiser can simply escape liability by citing this provision as a defence? It may be argued that this provision is not suitable in the present context where the Internet has become an important medium of communication including for advertising purposes.

There are currently no specific guidelines governing advertisements of medical products on the Internet. Nonetheless, to strengthen the protection given to consumers in respect of medicinal advertising, the Advertising Guidelines for Medical Products and Appliances was issued by the MAB. The Guidelines are primarily drawn up to ensure responsible advertising in promoting the sale of medicines, appliances or remedies without prescription to public. Responsible advertising of medical products is essential because consumers are vulnerable to be making inappropriate and harmful decisions on the use of medical and health products. In the context of online advertising, the application of the Guidelines is limited to advertisements on websites registered in Malaysia only. Consequently, the MAB would have no effective control over advertisements of medical products, by Malaysians, in websites originated outside Malaysia. While this is the situation, it is questionable whether online advertising videos relating to the sale of medical products posted to company-owned websites are subjected to the Guidelines. Similarly, it can be understood that advertisements in blogs and social networking websites would not fall within the jurisdiction of the MAB. As such, such advertisements can be posted freely on the Internet.

Recently, the MAB has issued a new policy allowing the use of celebrities in advertisements. 'Celebrities' in this sense include local or international celebrities, models, and athletes. As far as the consumers are concerned, this is inappropriate because there are numerous risks and danger associated with the use of celebrities in advertising. In most cases, it could be pertinently assumed that the selection of celebrities is made based on their beauty or popularity, not because of their personal experience of using the products. In this sense, it is contended that the

consumers are likely to purchase particular products because of celebrity appeals rather than for health reasons. Thus, the use of celebrities implies increase in cost, with the consequence that consumers end up paying more than necessary.

In addition, item 5.8.3 of the Guidelines prohibits the advertising of weight loss products through televisions, but allows such advertising in other media. This rule is contentious because the Internet is accessible as much as the television and perhaps even more. With just a simple click, one can see thousands of weight loss advertisements from all over the world. Thus, it would be illogical to allow the advertising of weight loss products on the Internet but to disallow it through the television screens.

Besides the Advertising Guidelines for Medical Products and Appliances, the MAB has also issued the Advertising Guidelines for Healthcare Facilities and Services to complement the provisions of the Medicines (Advertisement & Sale) Act 1956 in respect of advertising of medical services to the public. Similar with the former Guidelines, all advertisements for healthcare services must be approved by the MAB prior to publication. By virtue of the new policy issued in 2011, the use of celebrities to promote the services of healthcare facilities is now allowed. This rule is inappropriate as celebrity endorsement in advertisements could affect the personalities and values of human beings in such a way that it builds insecurity and inferiority in a person's life. It makes people to pursue blindly and mindlessly. People would be enticed to be perfect like celebrities, to look like celebrities, and to live like celebrities. Such advertising will also lead to other negative consequences on the consumers' health, financial standing, and time. For instance, due to celebrity appeals, consumers are induced to visit private hospitals or clinics which are time consuming, and further, to undergo unnecessary medical tests which involve high costs.

In addition to the above proviso, recently in 2011, the Guidelines were revised by the MAB and as a result, the medical practitioners are now allowed to advertise in all print and electronic media including magazines, newspapers, televisions, radios, as well as the Internet, upon approval by the MAB. It has to be acknowledged that previously, the advertising of healthcare services and facilities were limited to leaflets, health magazines, directories and billboards. This liberalisation occurs due to the aspirations of the Ministry of Health towards promoting health tourism in Malaysia. Nonetheless, it appears that the liberalisation is mainly for the sake of economic growth rather than to ensure quality public healthcare. Even though advertisements will be pre-reviewed for approval by the MAB, there are still rooms to question the appropriateness of the recent liberalisation. First, there is tendency that members of the medical profession would not act cautiously and professionally when advertising their services. For instance, they might come out with unbalanced information or excessive claims in advertisements in efforts to promote health tourism. It is true that the Guidelines have strictly emphasized that information contained in advertisements should not be deceptive or partial but this is insufficient as the opportunity for information unevenness is much greater now due to liberalization. Another negative impact of the liberalization move is the acute rise of healthcare costs or service charges. This is due to the rise in the advertising costs. More often than not, patients have to bear the advertising costs which are circuitously incorporated in the patients' fees. In this respect, although the liberalisation has the ability to attract more foreign health tourists to Malaysia and to increase the national economy, it is not sustainable as its disadvantages to local consumers outweigh its benefit. Furthermore, as the private hospitals and clinics pay more attention on promotional activities, it is apprehensive that their aim would no longer to inform people about medical options available but to gain maximum profits from the services offered. The idea of profit-making is in fact unethical within the medical profession. The Guidelines on the Dissemination of Information by the Medical Profession explicitly prohibit medical practitioners from advertising their facilities and services on grounds of financial

considerations or material gain as medical practice is not a commercial transaction. Thus, the idea of liberalisation is not only contrary with the humanity but also contrary with the Medical Profession's etiquette itself.

CONCLUSION

Examination of the existing law on consumer protection over soft issues in online advertising reveals that most statutory legislations, guidelines and codes of practice had very little consideration for the protection of vulnerable consumers. Despite some legal recognition being made to online advertising, the regulations are not clearly encompassed and put in place to deal with the current Internet infrastructure and to tackle the emerging soft issues surrounding the consumers. As the primary legislations for the publication of obscene or indecent materials, the Penal Code and the Indecent Advertisements Act 1953 are inadequate in providing protection for online consumers particularly women and children. The issue of child-targeted advertising failed to receive even a small attention in the statutory legislations, guidelines or codes of practice. The Content Code, as a self-regulation mechanism, has missed to tackle the issue, despite its worthy attempt in addressing issues relating to women, sex and decency. In so far as medicinal advertising is concerned, the Medicines (Advertisement and Sale) Act 1956 is very narrow when it comes to consumer protection matters. This also occurs in its guidelines where necessary rules and restrictions are not in place to safeguard the consumer interests. As a result, the provisions of the guidelines turn out weak and lax in most facets. Indeed, there is a dearth of specific legal restrictions at present for the protection of consumers mainly regarding what can and cannot be done by advertisers in relation to the soft issues. Hence, review of existing regulations is indeed necessary to ensure adequate protection for consumers particularly in the context of soft issues relating to online advertising.

ACKNOWLEDGEMENT

First and foremost, my grateful thanks are due to Allah SWT for giving me the will and strengths to produce this paper. I wish to express my heartfelt gratitude to the Dean, Assoc. Prof. Dr. Haidar Dziauddin for his advice and encouragement to write this paper. I would also like to thank my colleagues Akhmal and Jannah for their moral support and motivation. My sincere appreciation goes to my parents Ab Aziz and Rasadah, for their prayers, sacrifice and understanding towards my career and life journey. Finally yet importantly, to my beloved husband Zakir Fathi and my wonderful daughter Nuha Zhafirah, I am really grateful for your presence, love and patience.

REFERENCES

- Advertising Guidelines for Healthcare Facilities and Services 2013
Advertising Guidelines for Medical Products and Appliances 2013
Asia Digital Marketing Association (ADMA). (2012). *Asia Pacific digital marketing yearbook 2012*. Retrieved from
file:///C:/Users/User/Downloads/ADMA_Digital_Marketing_Yearbook_2012.pdf
Azila Alya Dahalan. (2007). *Pengiklanan Internet: Efektif tapi mengancam*. Retrieved from
https://www.cybersecurity.my/data/content_files/13/353.pdf
Brown, C. B. (2007). *The complete guide to Google advertising*. Florida: Atlantic Publishing Group Inc.
Chapman, K., Kelly, B., Bochynska, K., & Kornman, K. (2008). Internet food marketing on popular children's websites and food product websites in Australia. *Public Health Nutrition*, 11, 1180-1187.
Communications and Multimedia Act 1998
Communications and Multimedia Content Forum. (2010). *Complaints bureau decisions*. Retrieved from [http://www.cmcf.my/download/Complaint Bureau List 2010.pdf](http://www.cmcf.my/download/Complaint_Bureau_List_2010.pdf)
Food Act 1983

Food Regulations 1985

Gaffney, J. (2001, July). The battle over Internet ads. *Business 2.0*.

Graboviy, A. (2011). *Consumerism and its dangers to children: A call for regulation in advertising*. Retrieved from

<http://gatton.uky.edu/gsrp/downloads/issues/spring2011/consumerism%20and%20its%20dangers%20to%20children%20a%20call%20for%20regulation%20in%20advertising.pdf>

Guidelines on the Dissemination of Information by the Medical Profession 2006

Ida Madieha Azmi. (2004). Content regulation in Malaysia: Unleashing missiles on dangerous websites. *Journal of Information, Law and Technology*, 3. Retrieved from

http://www2.warwick.ac.uk/fac/soc/law2/elj/jilt/2004_3/azmi/

Indecent Advertisements Act 1953

Korn, D. J. (2006). *Ethical judgments of sexual appeals in advertising image-Based products to teens*. Retrieved from

<http://digitalcommons.uri.edu/cgi/viewcontent.cgi?article=1005&context=srhonorsprog>

Livingstone, S., & Brake, D. (2010). On the rapid rise of social networking sites: New findings and policy implications. *Children and Society*, 24, 75-83.

Malaysian Communications and Multimedia Commission. (2009). *Advertising development in Malaysia: Catching eyeballs in changing media*. Retrieved from

http://www.skmm.gov.my/link_file/what_we_do/Research/Industry%20studies/Ad_Dev_Malaysia.pdf

Malaysian Communications and Multimedia Commission. (2010). *List of cases investigated in 2010 (January–December 2010)*. Retrieved from

http://www.skmm.gov.my/link_file/what_we_do/Enforcement/2010/List%20Of%20Cases%20Investigated%20Jan-Dec%2010.pdf

Malaysian Communications and Multimedia Content Code

Medicines (Advertisement and Sales) Act 1956

Mierzwinski, E. (2010). Colston E. Warne lecture: Consumer protection 2.0- Protecting consumers in the 21st century. *The Journal of Consumer Affairs*, 44, 578-597.

O'Keeffe, G. S., & Clarke-Pearson, K. (2011). *Clinical report-The impact of social media on children, adolescents, and families*. Retrieved from

<http://pediatrics.aappublications.org/content/early/2011/03/28/peds.2011-0054>

Obscene Publications Act 1959 and 1964

Penal Code

Pindick, R., & Rubenfield, D. (2009). *Microeconomics* (7th ed.). New Jersey: Prentice Hall.

The Nielsen Company. (2013). *Global trust in advertising and brand messages*. New York: Nielsen Holdings. Retrieved from

<http://www.nielsen.com/content/dam/corporate/us/en/reports-downloads/2013%20Reports/Nielsen-Global-Trust-in-Advertising-Report-September-2013.pdf>

AUTHOR'S BIOGRAPHY

Nur Hidayah bt Ab Aziz is a lecturer in Faculty of Law, Universiti Teknologi MARA, Shah Alam. She can be contacted via email nurhidayah5821@salam.uitm.edu.my.