TO WHAT EXTENT DOES THE PERSONAL DATA PROTECTION ACT 2010 PROTECT THE PERSONAL DATA OF THE CONSUMER:

A LEGAL ANALYSIS

By:

Arianie Binti Rusli (2012853502) Mariam Nasyitah Binti Mahamad (2012852068) Rozainasha Binti Mohd Omar (2012835346)

Submitted in Partial Fulfilment of the Requirements for the Bachelor of Laws (Hons)

Universiti Teknologi MARA Faculty of Law

December 2014

The students/authors confirm that the work submitted is their own and that appropriate credit has been given where reference has been made to the work of others.

ACKNOWLEDGEMENT

Firstly, we would like to thank University Teknologi Mara and the Faculty of Law for giving us the opportunity to do a research.

We would like to express our gratitude and appreciation to our supervisor, Madam Azhani Arshad whose ideas, encouragement and guidance have been immeasurable. We are fortunate to have her as our supervisor. We would like to thank her for her patience during the process of completing this research.

In addition, we would like to thank our parents for their understanding of our needs while completing this research. Without their love and endless support, this research might not exist. Not forgetting the financial support our parents gave us while completing research was indeed helpful.

We would like to thank our friends for aiding us while completing research. We learned a lot from their knowledge. Besides that, we would like to thank those who aided us in this research in terms of collecting data.

Above all, we would like to thank Allah swt for his blessings and for His rewards to us in completing this research.

ABSTRACT

There are a lot of complaints made by individuals that believed their personal data have been violated. There are several situations in which the individual might believed so for instance, one might received unknown phone calls from strangers advertising random item. One might also encounter a situation in which their mobile phones keep receiving messages from unknown number advertising products. These messages sometimes contain the name and the address the owner of the phone correctly. The question is where did they get this kind of personal information and it is authorized by the law. If so, how would a person feel safe and protected to know that his or her personal data are floating in hands of strangers. Thus, this research seeks to determine on the extent of protection provided by the Personal Data Protection Act 2010 in matters relating to the personal data of consumer. This research also would further investigate on whether there is a need for amendment of the Personal Data Protection Act 2010 in order to safeguard consumers' personal data. In discussing on the need to amend the Act 2010, this research will also focus on comparison between other countries with similar law such as Singapore and Hong Kong. This research employs qualitative approach to empirical studies. This approach is presumed to be closer to the social sciences. Data collection in the qualitative approach is a combination of two methods namely interviews, and document analysis.

TABLE OF CONTENTS

Acknowledgement	ii
Abstract	iii
Table of Contents	iv
List of Statutes	vi
List of Cases	vii

CHAPTER ONE: INTRODUCTION

5
6
6
7
8
9

CHAPTER TWO: THE PERSONAL DATA PROTECTION ACT 2010 AND CONSUMERS' RIGHTS

2.0	Introd	luction	10
2.1	The Personal Data Protection Act 2010		11
	2.1.1	Applicability	11
	2.1.2	Data user, Data Subject and Personal Data	12
	2.1.3	The General Principles of the Act	13
	2.1.4	Rights of the Individuals	15
	2.1.5	Enforcement of the Law	16
2.2	Consumers' rights		18
	2.2.1	Types of Consumer Rights	19
	2.2.2	Protection in Law	20
	2.2.3	Rights of Consumer in Terms of Privacy	20
2.3	Conclusion		

CHAPTER THREE: COMPARATIVE ANALYSIS: LEGAL POSITION IN HONG KONG, SINGAPORE AND MALAYSIA

3.0	Introduction	22
3.1	Legal Position in Hong Kong	22
3.2	Legal Position in Singapore	25
3.3	Differences between the Legal Position of	
	Hong Kong, Malaysia and Singapore	29

3.4	Similarities between the Legal Position of	
hau .	Hong Kong, Malaysia and Singapore	30
3.5	Conclusion	32

CHAPTER FOUR: LEGAL ANALYSIS

4.0	Introduction		
4.1	Legal Issues		.33
	4.1.1	The Personal Data Protection Act 2010	
		Governs Commercial Activities Only	33
	4.1.2	Limited Liability of the Federal and State Government	34
	4.1.3	The Independency of the Regulatory Body	35
4.2	Issues on the Enforcement of PDPA 2010		35
4.3	The Risk of Processing Data		37
4.4	Conclusion		

CHAPTER FIVE: CONCLUSIONS AND RECOMMENDATIONS

5.0	Concl	lusion		
5.1	Recor	nmendations	3	40
	5.1.1	Establishin	g an independent regulatory body	40
	5.1.2	The Person	al Data Protection Act 2010 Should Be Amended	41
		5.1.2.1	To Govern the Liability of Federal and States	42
			Government	
		5.1.2.2	The Personal Data Protection Act 2010 Should	
			Include Non-Commercial Transaction	43

Bibliography		44
Appendices		46
Appendix 1	: Interview Questions	47
Appendix 2	: Interview Answer 1	48
Appendix 3	: Interview Answer 2	52
-		