

**A STUDY OF THE REGULATORY FRAMEWORK
ON ELECTRONIC COMMERCE AND CONSUMER PROTECTION
IN MALAYSIA**

Presented to

**Consumer International Asia-Pacific for the
Asia IT&C Project on Protecting Consumers in E-Commerce Transactions
(PROCONNECT)**

By

**Dr. Kiranjit Kaur, Associate Professor
Mangalam Gopala Iyer, Associate Professor
Noraziah Abdul Jabar
Norliza Abdul Hamid**

Through the

**Institute of Research, Development and Commercialisation (IRDC)
Universiti Teknologi MARA,
Shah Alam, Selangor,
Malaysia**

June 2005

ACKNOWLEDGEMENT

We wish to express our gratitude and appreciation to all those involved in ensuring the success of this project. Our special thanks go to the participants in the survey and our research assistants who helped us in many ways. We are also appreciative of the input from our Thai collaborators on this project. The project was made more challenging as a result of working with their team.

The assistance provided by several organisations and individuals also deserves a special mention in our acknowledgement. Individuals who assisted us in the preparatory stages of our work include especially Alison Hopkins from Consumer International head office in London, United Kingdom; Perry Perfors from Consumentenbond, Netherlands; and Beau Brendler from Consumerwebwatch, United States of America. Terima kasih for all your wonderful advice and assistance.

We also wish to convey our gratitude to the European Union for the Asia It & C Grant that helped to sponsor this project.

Lastly, we wish to extend our appreciation to the Consumer International Asia Pacific office and the Institute of Research, Development and Commercialisation (IRDC), Universiti Teknologi MARA for their support and advice on conducting this project.

Thank you.

ABSTRACT

This study examines first, existing legislation governing e-commerce transactions in Malaysia, and second, the redress mechanisms available to online retailers and customers. Various legislations that affect Internet related activities, whether directly or indirectly, were examined to see the level of protection provided to consumers. The strengths and weaknesses that exist in them were also analysed. In essence, an e-commerce consumer is like any other buyer except that the method of shopping is different. Thus, the consumer should be afforded the same legal protection.

Based on related studies conducted by the researchers in Malaysia, several consumers thought that they are still not adequately protected. For instance, the Consumer Protection Act 1999 is to protect consumers against misleading and deceptive conduct, false representation, and unfair trade practices. However, e-commerce consumers are outside the ambit of the Act unless otherwise prescribed by the Minister. The study also examined methods of settling disputes other than by going to courts through Alternative Dispute Resolution including arbitration, mediation and conciliation. In its effort to build confidence and trust in e-commerce transactions, the government has proposed two new Bills: the Electronic Commerce Bill and the Data Protection Bill. Both Bills adopt the principles of the UNCITRAL Model Law on Electronic Commerce 1996. The provisions are more comprehensive and to a certain extent may resolve matters that were not covered by other statutes. The researchers propose that these two Bills be passed as speedily as possible to enhance e-commerce activities in Malaysia.

CONTENTS	PAGE
Acknowledgment	
Abstract	
Contents	
1.0 Introduction	1
2.0 Specific E-Commerce Legislation	3
2.1 Digital Signature Act 1997	3
3.0 General Legislation	5
3.1 Consumer Protection Act 1999	5
3.2 Contracts Act 1950	6
3.3 Hire Purchase Act 1967	7
3.4 Sale of Goods Act 1957	8
3.5 Trade Descriptions Act 1972	9
3.6 Additional related statutes	10
4.0 Proposed Laws	10
4.1 Electronic Commerce Bill	10
4.2 Personal Data Protection Bill	11
5.0 English Common Law	14
6.0 Law of Tort	15
7.0 Consumer Redress and Alternative Dispute Resolution	16
7.1 Arbitration Act 1952	17
7.2 Mediation and Conciliation	17
7.3 Kuala Lumpur Regional Centre for Arbitration	17
8.0 Additional Protections	18
9.0 Conclusion and Recommendations	18
Appendix 1: List of related legislation for e-commerce transactions	23
Appendix 2: Guidelines for the certification of e-commerce enabled Websites & Application form for certification of e-commerce websites	24

