

# MALAYSIA COMPLAINS

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NATIONAL  
CONSUMER  
COMPLAINTS  
CENTRE

ANNUAL  
REPORT  
**2009**

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# Contents

I.	Message from the President of FOMCA .....	2
II.	The National Consumer Complaints Centre .....	4
III.	Introduction .....	5
IV.	Consumer Complaints Handling and Counselling Procedure .....	7
V.	Statistics on Consumer Complaints 2009 .....	8
VI.	Reports	
1.	Direct Sales / Scam .....	10
2.	Housing .....	13
3.	Communications & Multimedia .....	16
4.	Future Services .....	19
5.	Quality of Products & Services .....	21
6.	Public Transport .....	23
7.	Financial Institutions .....	25
8.	Hospitality .....	27
9.	Government Agencies & Services .....	30
10.	Hire Purchase .....	31
11.	Management of Strata Title Properties .....	33
12.	Insurance .....	36
13.	Automobiles .....	38
14.	Retail Trade .....	40
15.	Electricity & Energy Supply .....	42
16.	Job Recruitment Agencies .....	44
17.	Cheap Sales .....	46
18.	Maid Agencies .....	48
19.	Legal Services .....	50
20.	Water Services .....	52
21.	Pawn broking .....	55
22.	Food .....	56
23.	Healthcare Services .....	58
	Annexure 1: Complaint Form .....	60



## Message from **The President of FOMCA**

I am pleased to present the National Consumer Complaints Centre's (NCCC) Annual Report on consumer complaints for 2009. This report represents our fourth comprehensive analysis of consumer complaints beginning with the first report for 2006.

In 2009 a total of 32,369 complaints were received by the NCCC compared to 28,080 in 2008, an increase of 15.3 percent. The 2009 report lists two new categories that is, "Automobiles" and 'Government Agencies & Services'. There are a total of 23 categories in the 2009 report.

### *Consumer Education is the Solution*

The *National Consumer Policy* requires everybody to be involved in educating consumers. The government is required to raise the level of *consumer awareness* with formal and informal consumer programs and activities. It should set up comprehensive infrastructure for *effective consumer education*. Consumer groups should be established at all levels and in both urban and rural areas. Consumer education should also be expanded to schools and institutions of higher learning. Importantly consumer education should be made a subject or integrated in all existing subjects at school and institutions of higher learning. A point to note is that the policy recommends that consumer education be provided to suppliers and manufacturers through their associations.

At the launch of the FOMCA organized

Consumers' Day Competition on 18 February 2010, the Minister of Domestic Trade, Cooperatives and Consumerism revealed the findings of a study done by his ministry in 2009 on consumer awareness in the country. He said that consumer awareness among Malaysians is only 58 percent and those with higher education were more aware compared to those with lower education. This was a big challenge to the ministry as this group formed 67 percent of the total population and the majority of them lived in the interior. Consumer awareness among youth in the 15-20 age cohort was lower than those who were older. This target group is important as it comprises students in schools and university students. As such, to activate this group the ministry will continue to strengthen school consumer clubs and university consumer clubs until the ministry reaches its target of consumer clubs in all secondary schools and universities. He further informed that of the total respondents in the study 92 percent were aware of FOMCA as a consumer association. However he said that this also posed a challenge to FOMCA to continue to be a 'more objective and effective' NGO in advocating consumer rights in Malaysia while also assisting the government to inculcate consumer knowledge on a wider scale among the people.

FOMCA is not aware of the parameters of the study done by the ministry, such as total respondents, coverage, age cohorts, gender distribution, ethnic composition or methodology used. We are however not surprised at the findings. If anything they are an indictment of the



*“The National Consumer Policy requires everybody to be involved in educating consumers. The government is required to raise the level of consumer awareness with formal and informal consumer programs and activities.”*

ministry's performance over the last twenty years since its establishment in 1990. If only a coherent consumer education strategy had been adopted since the ministry's inception, we would not be witnessing such depressing statistics today.

FOMCA has always worked with all the ministers who have helmed the ministry over the last two decades to advance the consumers' interest, be it through advocating for new legislation or through consumer awareness and consumer education programs. One thing however comes out clearly from this collaboration. That is, funding for FOMCA has progressively been reduced, so much so that currently only 7 percent of FOMCA's funding comes from the ministry. With limited human resources and very little funds, it is anybody's guess as to how FOMCA can assist the ministry to inculcate consumer knowledge to a wider spectrum of Malaysian society.

FOMCA has always prided itself for being objective and effective as a consumer organization. This can be seen from our numerous programs in various consumer sectors, publications, research, consumer complaints handling and collaboration with other agencies both in the public and private sectors.

The ministry has one of the largest networks of offices and staff in the country. Every state and district has some form of consumer establishment, in terms of a branch office of the ministry, a network group such as the 'Rakan Pengguna' and even political representatives who

have been appointed to oversee consumer matters at the local level. In addition to all these, it has also forged a number of 'strategic partnerships' with other government departments and NGO's. All of them are involved in one way or another with consumer education or awareness programs. Based on the findings of the study, I think it will be useful exercise for the ministry to carry out an evaluation of the performance of all these groups.

However to heed the Minister's call for assistance in consumer education, FOMCA is prepared to design and implement a coherent consumer education strategy. We are ready to assist the ministry, if the ministry can and is able to provide sufficient funding for FOMCA to design and implement a five year consumer education plan solely for the age cohorts that it is most concerned about.



**Datuk Marimuthu Nadason**

President

Federation of Malaysian Consumer Associations  
(FOMCA)

# The National Consumer Complaints Centre

## About NCCC

*The National Consumer Complaints Centre (NCCC) is a non-profit organization. It was launched in July 2004 and is partially funded by the Ministry of Domestic Trade, Cooperatives and Consumerism Malaysia.*

## Vision

*To be an independent and respected organisation providing a mechanism for consumer complaints and counselling to resolve problems arising from the purchase of goods and services.*

## Mission

*To provide consumers with an objective and timely resolution of disputes, claims and complaints with regard to their purchase of goods and services.*

## Objectives

- *Guiding consumers in finding solutions to problems related to the purchase of goods and services;*
- *Empowering consumers with information on consumer related matters;*
- *Facilitating consumers in filing claims and complaints against errant goods and service providers; and*
- *Highlighting consumers' concerns in the media*

# Introduction

## The NCCC Annual Report 2009

The Annual Report for 2009 by the National Consumer Complaints Centre (NCCC) represents the fourth in its series of annual reports initiated in 2006. As in the previous years the report for 2009 contains a review and analysis of consumer complaints lodged with NCCC. The current report contains 23 categories of complaints. Two new categories 'Automobiles' and 'Government agencies and services' have been added this year.

A total of 32,369 complaints were received in 2009 as against 28,080 complaints in 2008. This represents a 15.3 percent increase in the number of complaints registered with NCCC. The top category of consumer complaints for 2009 is 'Direct sales' category with 2713 complaints which was also the top category in 2008 with 2,339 complaints.

The top four categories of complaints for 2009 with more than 2,000 complaints each were Direct sales (2713), Housing (2686), Communication & Multimedia (2512) and Future Services (2347). Together they accounted for a total of 10,258 complaints from all complaints lodged by consumers with NCCC for the year 2009.

## Purpose of the NCCC Report

The purpose of the 2009 report is to provide feedback to all relevant parties on complaints received from consumers regarding their dissatisfaction with goods and services purchased and the organizations providing such goods and services. It represents *firstly*, feedback to the business community on the complaints received

against them and their responsibility to improve the goods and services provided to consumers. *Secondly* the business community must fully comply with all laws and regulations that govern business activities and *thirdly* they must meet consumer expectations by carrying out trade in a fair and ethical manner.

In these times of economic uncertainty, it is important for business organizations to remain relevant in the business environment in order to succeed. Apart from branding and rebranding exercises, they also must try and retain the loyalty of their existing consumers while attempting to attract new consumers to their products and services. One way is to improve the quality of goods and services provided to consumers.

Consumers are now more sophisticated and savvy these days. Increasingly they want manufacturing industry and the business community as a whole to take into consideration the interests of consumers, adopt fair and ethical trade practices, and adopt 'green' production technologies which are environment friendly. In other words they have to give importance to sustainable production techniques and adopt proper waste disposal methods to reduce detrimental effects on the environment.

As value based consumer consumption increases the demand for goods and services, industry and the business community must engage positively with consumers and the consumer movement. This is by understanding consumer grievances and identifying deficiencies in their goods, services and delivery systems. This is where the NCCC Report should be a valuable reference point.

## Structure of the Report

All consumer complaints have been classified, analyzed and presented as sector reports. There are 23 sector reports in the NCCC Report for 2009. Each sector report comprises a similar format to facilitate easy reference. The heading of the sector report is followed by a 'summary' of the main complaints raised for that sector. Each sector report has an 'introduction' section which analyzes the complaints received against that sector. The introduction section is followed by 'consumers issues' section which analyzes the nature of complaints received and provides information on laws and regulations applicable to that sector and the report ends with 'recommendations' which list out steps which can be taken to overcome the complaints listed.

## Methodology used for the Report

All complaints received by the NCCC are logged into a database. Important information about the complainant, such as name, address, age, gender and race, is collected. Complaints are classified into two categories namely complaints on goods and those on services. The specific nature of the complaint and the organisation involved is also recorded to facilitate investigation.

All complaints are vetted for clarity, consistency and validity by trained NCCC counsellors. All supporting material is carefully scrutinized. The core problem of each complaint is examined to determine the category it should come under. A "cut-off" point of 200 complaints has been adopted for the 2008 report before complaints qualify to be classified as a category.



# Consumer Complaints Handling and Counselling Procedure

The NCCC counsels the complainant by making sure he or she is fully aware of the nature of the complaint, the implications arising from it, the various dispute resolution methods available and the legal action that can be taken, should he or she be so inclined. The NCCC in-house legal team facilitates the counselling process on legal remedies.

The NCCC then issues an official letter, within 48 hours of the complaint being lodged and examined, requesting the organisation involved resolving the dispute. A period of seven working days is given to the organisation to respond. If no response is received, reminders are sent out three times, each with a further period of seven days for a reply.

Should the organisation refuse to respond, the NCCC proceeds with the second step by forwarding the complaint to the relevant regulatory authority. If this too fails, the NCCC advises and assists the complainant in filing a claim with the relevant dispute resolution body, or provide assistance from NCCC's in-house legal team, should the complainant decide to file a legal claim against the organisation concerned.

If the complainant after guidance from NCCC is successful in solving the problem, he is encouraged to inform NCCC of the result, which is also entered into the database. The NCCC promotes alternate dispute resolution mechanisms available to the consumer as these are speedy, cheap and fair, compared with the costly and time-consuming litigation process.

In this manner, the NCCC since its inception has successfully enhanced the lives of consumers and it hopes to change the way business is done. While it is an accepted fact that businesses and consumers should exist in harmony, as they need each other, businesses are expected to conduct their affairs in an ethical and fair manner, with consumer satisfaction as a priority.

# Statistics on Consumer Complaints 2009

Table 1. Number of Complaints Received by Category

Category	2009												Total
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
1 Direct Sales/Scams	168	151	154	133	290	274	242	272	265	248	218	298	2,713
2 Housing	209	197	209	235	264	209	236	222	231	238	197	239	2,686
3 Communications & Multimedia	199	172	187	151	258	282	184	221	240	201	217	200	2,512
4 Future Services	150	134	160	209	228	210	216	268	198	165	189	220	2,347
5 Quality Of Product & Services	145	160	154	136	132	221	232	219	190	130	171	230	2,120
6 Public Transport	176	152	185	199	208	208	229	223	116	146	39	143	2,024
7 Financial Institutions	137	137	140	152	140	161	184	167	205	241	167	110	1,941
8 Hospitality	106	128	139	163	129	98	113	109	152	122	220	134	1,613
9 Government Agencies & Services	71	116	71	89	304	113	89	47	107	110	262	184	1,563
10 Hire Purchase	103	98	101	86	113	161	149	107	152	167	128	113	1,478
11 Management Corporations	151	177	153	86	95	86	101	80	146	92	118	76	1,361
12 Insurance	110	89	101	110	63	128	128	113	134	143	107	134	1,360
13 Automobiles	87	95	90	107	99	121	103	86	161	156	74	135	1,314
14 Retail Trade	68	77	86	92	101	113	60	86	113	131	86	155	1,168
15 Electricity & Energy Supply	74	99	57	68	91	42	96	72	92	87	110	61	949
16 Job Recruitment Agencies	36	30	21	39	60	36	42	45	202	113	74	134	832
17 Cheap Sales	49	52	49	58	59	45	65	53	49	57	193	100	829
18 Maid Agencies	51	63	48	86	98	57	71	54	39	54	62	63	746
19 Legal Services	57	43	34	51	36	42	60	100	117	57	48	59	704
20 Water Services	53	36	33	36	39	22	29	29	103	78	69	170	697
21 Pawn Broking	45	42	45	68	51	77	39	60	60	54	69	63	673
22 Food	42	35	26	21	12	21	12	6	57	30	185	27	474
23 Healthcare Services	23	20	24	25	24	25	20	21	19	16	29	19	265
<b>Total</b>	2,310	2,303	2,267	2,400	2,894	2,752	2,700	2,660	3,148	2,836	3,032	3,067	32,369

Table 2: Ethnicity of Complainants

No.	Race	Total	%
1	Malay	20,135	62.2
2	Chinese	9,989	30.8
3	Indian	2,097	6.4
4	Others	120	0.4
5	Foreign Tourists	28	0.1
<b>Total</b>		<b>32,369</b>	<b>100</b>

Table 3: Channels Used to Lodge Complaints

No.	Channel	Total	%
1	Phone Call	13,787	43.0
2	Email	6,538	20.0
3	Letters	4,364	13.5
4	Walk-In	3,990	12.0
5	Website	3,389	10.0
6	Fax	301	1.0
<b>Total</b>		<b>32,369</b>	<b>100</b>

Table 4: Breakdown of Complaints Handled by NCCC and those Channelled to Other Organisations

No.	Organisation	No. of Complaints	%
1	National Consumer Complaints Centre	27,545	85.1
2	Tribunal for Consumer Claims	2,602	8.0
3	Public Sector Bodies	1,336	4.1
4	Financial Mediation Bureau	886	2.7
<b>Total</b>		<b>32,369</b>	<b>100</b>

## Report 1

# Direct Sales / Scams

No.	Types of complaints
1	Misrepresentation, fraud, coercion, undue influence
2	Defective products offered
3	Payment by credit card
4	Cooling-off period
5	Intrusion into customers' privacy
6.	Scam investments

### 1.0 INTRODUCTION

Scratch and win contests are still thriving despite NCCC reports to the authorities since 2005. Lately fraudulent investment schemes have come in to rip-off unwary consumers. These activities are carried out by unscrupulous companies and to cheat consumers who continue to suffer losses at the hands of these companies. NCCC recorded a total of 2,713 complaints in 2009 with regard to direct sales and investment scams. There are some 497 licensed direct selling companies in the country. The Ministry concerned issued 32 new direct selling licenses in 2009. In 2009, the local direct selling industry achieved sales of RM4.3 billion. The following are the complaints received from consumers.

### 2.0 CONSUMER ISSUES

#### 2.1 Misrepresentation, fraud, coercion, undue influence

Consumers complain that these companies are using simple Scratch and Win games to lure consumers to buy their products at a high prices compared to market prices for similar products. In order to win consumers over they make false representations, use fraud to deceive, coercion such as showing threatening behaviour, undue influence to dominate the will of consumers and prevent them from making an independent choice. All of these acts are in direct violation of

the **Direct sales Act 1993 (DSA)**, **Contracts Act 1950 (CA)** and **Consumer protection Act 1999 (CPA)**. For example, **Section 10 of CPA**, clearly prohibits all kind of misleading statements as to the kind, standard, grade, quality, composition, style or model of any goods. Even **Section 14 of CA** provides that when consent is obtained to purchase a product via unlawful means, that consent is not a free consent of the buyer. Hence the customer is entitled to terminate the contract and demand for compensation.

#### 2.2 Defective products offered

Consumers complain that when the product offered is defective there is no after sales service. Consumers are initially told that the products are branded or are of good quality and come with original warranty. However, they later discover that the products are not those of well known brands but unknown brands imported from overseas. Some of these products are imported from China and Taiwan.

**Section 32 (1) of CPA** provides that goods supplied shall have implied warranty as to quality and **Section 32 (2)(a) and (b) of CPA**, state that products offered for sale are deemed to be of acceptable quality in appearance and finish if free from minor defects, safe, durable and exclude hidden defects.





*“There are many complaints from consumers on the marketing behaviour of direct selling companies and their agents. Some complainants receive regular telephone calls, SMSs, from direct selling companies.”*

material facts by direct selling companies occurs often since the companies tend to close a deal as quickly as possible in order to lock in commissions. **Section 25 (4) of DSA**, states clearly that direct selling companies shall not accept money or other consideration from a buyer before the expiry of the cooling-off period.

**Section 23 of DSA** states that direct sales contracts are “subject to a cooling-off period of 10 working days”, which means that the purchaser is given the time and liberty as to whether to continue with the contract or to terminate it. In reality, purchasers are coerced into signing the contract without being given the opportunity to think about it or to cancel if it is deemed unfit.

**Section 39 of DSA** states that any person who violates any provisions or regulations of the DSA shall on conviction be liable to a fine not exceeding RM25, 000 or to imprisonment not exceeding three years or both. Further for a second or subsequent offences shall be liable to a fine not exceeding RM50, 000 or to imprisonment for a term not exceeding 5 years or both.

## 2.2 Payment by Credit Card

NCCC has found that credit card holders, retirees and some vulnerable groups are targeted by these scammers. Where payment is by credit card for products purchased in direct sales, consumers often find that their cards have been swiped despite **Section 25 (4) of DSA** which clearly states that no vendor shall accept any money before the expiry of the cooling-off period. When the consumer wishes to cancel the transaction, the banks respond that it is up to the merchant (direct sales companies) to cancel and to refund the monies paid. In other situations, retirees are identified and specifically approached in isolation to convince them while other family members are absent.

## 2.3 Cooling-off Period

Direct selling companies concerned fail to inform the complainants about the cooling-off period and collect payment before the expiry date of the cooling-off period. This failure to inform the

## 2.4 Intrusion into customers' privacy

There are many complaints from consumers on the marketing behaviour of direct selling companies and their agents. Some complainants receive regular telephone calls, SMSs, from direct selling companies. They use young innocent school leavers to approach and dupe shoppers

in and around hypermarkets and complexes. These school leavers are made to believe what they are doing is legal.

## 2.5 Scam investments

These scam schemes, lure the gullible consumer to get rich quick. Consumers complain that scammers promise good returns on investment in a very short period of time. Usually they promise to give a return more than what the banks and other financial institutions can offer. These schemers usually promote business ventures such as bird nests farming, rearing high breed dairy cattle imported from Australia or New Zealand, growing seaweed, installing water machine kiosks, frozen sea food, shrimp farming, car rental projects and others. Such businesses are also promoted by television at prime time with the tag line, "Financial Freedom is so easy." They promise that all investments into these businesses would yield income to investors on a daily, weekly and monthly basis. They do this by showing a sample calculation of projected dividends and bonuses. The companies also promises that the capital invested is fully refundable at any time the investor thinks fit.

These companies are set up in accordance with the **Companies Act 1965**. The law does not dictate the running of the company on a day to day basis, neither does it interfere with the decision making process. Thus the directors of the company take full advantage of this, to carry out their fraudulent activities.

NCCC's investigation into these complaints reveals that there is no "tangible or physical" evidence of the existence of the businesses. However, these businesses do exist on papers filed with **Suruhanjaya Syarikat Malaysia (SSM)**. In 2009 NCCC received a total 510 such complaints. The investment amounts vary from RM20, 000 to RM100, 000 and even more. NCCC recorded an approximate loss of RM16 million by consumers to these scammers in 2009. The Domestic Trade Cooperatives and Consumerism Ministry (MDTCC) recently said that more and more professionals and highly educated are falling prey to these scam schemes. The Ministry

recorded about 529 cheating cases in 2009.

When investors demand for the return of the investments or as to the very poor return margin, companies blame the economic slowdown. These investments are based on contractual agreements created between the parties. Thus consumers' remedy is only in accordance with the terms and conditions of the agreements. Usually these agreements are lopsided and the consumers are at a disadvantaged position.

## 3.0 RECOMMENDATIONS

- 3.1 MDTCC should step up enforcement action to weed out all the unscrupulous direct selling companies in the country.
- 3.2 MDTCC should reduce the number of direct selling licences issued every year
- 3.3 Direct Selling Associations (DSA) must be proactive in reprimanding members guilty of taking unfair advantage of consumers, including striking off their membership and imposing punitive measures on them.

## Report 2

# Housing

No.	Types of complaints
1.	Abandoned projects
2.	Shoddy workmanship
3.	Late delivery penalty
4.	Non refundable booking fee
5.	Misleading advertisements

### 1.0 INTRODUCTION

At the end of 2009 there were 148 abandoned private housing projects involving 49,913 units affecting 31,824 house buyers throughout the country. In 2009 the National Consumer Complaints Centre (NCCC) received a total of 2,686 complaints on various aspects of housing. Abandoned housing projects remain the most serious problem facing consumers. This problem has also been highlighted in previous reports of NCCC. However there has been no substantial improvement in this aspect of housing complaints. The following are the main housing issues facing consumers nationwide.

### 2.0 CONSUMER ISSUES

#### 2.1 Abandoned projects

Abandoned housing projects are those not completed within the stipulated time period set in the Sales and Purchase Agreement. A project becomes abandoned when there is no substantial construction work on site or the developer is involved in a winding-up petition registered at the High Court under **Section 218 of the Companies Act 1965** or the developer voluntarily informs the Controller in the Housing Ministry in writing of his inability to complete the project and the Minister certifies it as abandoned under **Section 11(1) (ca) of the Housing And Development (Control and Licensing) Act 1966**. (HDA)



*“Buyers purchase houses based on the best information available in advertisements appearing in billboards; newspapers; brochures; radio; and television, with impressive artistic impressions including express and implied promises. However the buyer, after taking vacant possession, notices the facilities are not as promised ..”*



When a project is not completed on time, apart from daily anguish, the buyers have to shoulder the burden of having to pay installments on their housing loans without even owning the property. Many face financial difficulties in servicing their loans. Those defaulting will face legal action from banks for not paying up the loan. In addition they also have to continue paying rental for their current premises.

The “build-then-sell” concept until today is not being followed by developers because it is voluntary. The Ministry of Housing and Local Government and State Governments must understand the seriousness of the stress and impact on house buyers when a project is abandoned, and thus must ensure the compulsory implementation of the build-then-sell concept for the benefit of buyers.

## 2.2 Shoddy workmanship

Some developers use poor quality materials for buildings. This has caused buildings to crack or sink and for roofs to leak. This is a breach of **Regulation 13 Schedule G and H of HDA**. House buyers have the right to force developers to rectify defects, within 30 days of having received a written notice on the defects under **Regulation 25 (1) Schedule G and 29 (1) Schedule H of HDA** provided the defects appear within 24 months from the date the buyer takes vacant possession. However, in many cases the developer fails to attend to such complaints made by the buyer or uses delaying tactics in attending to the complaints promptly.

Under **Regulation 23 (3) of Schedule G and Regulation 26 (3) of Schedule H of HDA**, upon the expiry of 14 days of the Vendor’s notice to the Purchaser to take possession of the property, whether or not the Purchaser has entered into possession or occupation of the property, the Purchaser shall be **deemed** to have taken delivery of vacant possession. Based on these Regulations, certain developers are forcing house buyers to take vacant possession, despite the defects not being rectified.

## 2.3 Late delivery penalty

This applies where the developer fails to deliver vacant possession of the house to the buyer within the time period stated in the sales and purchase agreement. **Regulation 22 (1) Schedule G and Regulation 25 (1) Schedule H of HDA**, provides that the developer must deliver vacant possession of the property within 24 months for landed property and 36 months if strata property. If the developer fails to do so, then the developer is liable to pay to the buyer liquidated damages calculated from day to day at the rate of 10 per centum per annum of the purchase price from the expiry date of the delivery of vacant possession.

However many developers have refused to pay the stipulated liquidated sum to buyers. Some developers are facing financial difficulties and are totally unable to pay the liquidated damages to buyers. Some developers agree to only pay lesser liquidated damages and in installments. This puts buyers in a more difficult position where they are forced to accept a lesser sum because of financial constraints faced by the buyers.

## 2.4 Non refundable booking fee

Booking fee is a sum that a developer collects, during the launch or promotion of a housing project, to entice a prospective buyer, before the said buyer formally enters into a sale and purchase agreement with the developer. Such fee varies from RM50 to RM1, 000 or even more. The problem starts when the said buyer cancels the booking and the developer refuses to refund the said fee. Complaints on the issue of booking fees have also been increasing over the past few years despite NCCC highlighting this in the media. NCCC received 502 complaints on this matter. Developers’ refusal to refund the booking fee to buyers is a violation of the law. **Section 24 (2) (d) and (f) of HDA**, clearly states that only, the Minister may regulate all kind of payments, under whatever name these may be described for the purchaser to make. The minister also prescribes or names the fee to be collected from the purchaser as



stated in **Schedule G, H, I and J of HDA.**

The Sale and Purchase Agreement is a valid and binding contract. However, if a buyer is ineligible to secure a housing loan than the purchaser shall be liable to pay 1% per centum of the purchase price to the developer and shall be entitled to get a refund of the balance of the deposit paid, if any. Despite such stipulation under **Regulation 5 (3) of Schedule G and H** developers refuse to refund the balance of deposits or booking fees.

## 2.5 Misleading advertisements

Buyers purchase houses based on the best information available in advertisements appearing in billboards; newspapers; brochures; radio; and television, with impressive artistic impressions including express and implied promises. However the buyer, after taking vacant possession, notices the facilities are not as promised for example the location of the property is not as stated or suitable or not as per information provided. Some buyers claim the property purchased is too close to septic tanks, facing graveyards or very far from connecting roads and highways.

**Regulation 5(3) of Housing Development (Control and Licensing) Regulations 1989** says that any misleading statements, false representation or descriptions of the particulars of the development shall be an offence. Further, **Regulation 13 (1)** states that a developer who contravenes this provision shall be guilty of an offence and liable to pay a fine not exceeding RM20,000 or imprisonment not exceeding 5 years or both. The buyers' complaints are serious but challenging the developer in a court of law is very costly and time consuming. Hence, buyers are forced to accept the house without any other alternative.

## 3.0 RECOMMENDATIONS

- 3.1 The concept of "build-then-sell" must be made mandatory by amending the Act. It is not enough by merely inserting **Schedule I and J of HDA.**
- 3.2 The Enforcement Division of the Ministry of Housing and Local Government must carry out stringent periodical checks on housing development projects to avoid any shoddy workmanship and abandoned housing projects.
- 3.3 The Minister, using power conferred under **Section 11 of HDA**, should punish severely including jailing errant developers so that they would be deterred from abandoning projects as practiced in some Asian countries.
- 3.4 The Ministry should create a check and balance system under a Commission, comprising architects, engineers, banks, developers and consumers.

## Report 3

# Communications and Multimedia

No.	Types of complaints
	<i>Telecommunications</i>
1.	Broadband services
2.	SMS spam
3.	Rates and billing disputes
4.	Terms of contract
5.	Coverage and speed
	<i>Subscription Television</i>
6.	Price and bill disputes
7.	Service disruption during rain
8.	Poor customer service
9.	Repetitive programmes
10.	Too many advertisements

## 1.0 INTRODUCTION

In 2009 the National Consumer Complaints Centre, (NCCC) received a total of 2,512 complaints for this category. The complaints were against telecommunications, internet services and subscription television service providers. Consumers have become dissatisfied with the poor services provided despite the increase in subscription fees. In Malaysia users of mobile telephones and broadband services number some 28 million.

The laws and the regulating body governing these services are the **Communication and Multimedia Act 1998 (CMA)**, the **Malaysian Communication and Multimedia Commission Act 1998 (MCMCA)** and the **Malaysian Communication and multimedia Commission. (MCMC)**.

## 2.0 CONSUMER ISSUES

### Telecommunications

#### 2.1 Broadband services

The major complaint regarding broadband services is the frequent breakdowns and poor customer service. Consumers also complain that service providers do not take their complaints seriously. **Section 188 of CMA** requires service providers to provide adequate services to consumers.

#### 2.2 SMS spam

There are many complaints received on SMS spam, sent from service providers and charged to consumers. These unsolicited SMSs' are sent to the consumers hand phone and later the charge for the SMSs' are deducted from the prepaid amount in the hand phone or later billed, in the case of post paid hand phones. Amounts deducted are not communicated to the hand

phone users especially those using prepaid cards. The Commission formed under the, **MCMCA**, should suspend such service providers.

### 2.3 Rates and billing disputes

Many complain that the charges for telephone and internet usage are very high compared to users in other countries. In Malaysia, the setting of charges is left to service providers, to set freely in accordance to the market rate. The other complaints are on the rate for products offered by the services providers. One example is ringtones. A service provider of ringtones, who is charging RM3 for per download of one song, sold 1.4 million downloads of that one song and collected a total of RM4.2 million as revenue.

Further, there are complaints on irregularities found when bills are sent to consumers include charges for service not provided for, payment made but wrongly credited and double charges. In some cases bills are never received or wrongly addressed.

Inclusion of access fee is another common complaint. At the time of signing up for services, agents say that there is no access fee but which is subsequently found included in the monthly bill. Such misrepresentation should be investigated by service providers.

### 2.4 Terms of contract

There is no termination clause provided in the agreement signed. Consumers who are dissatisfied with their service provider are unable to terminate the agreement. When consumers terminate the agreement unilaterally, their name is black listed and the information passed on to financial institutions. This usually happens to consumers with post-paid lines, under which they have to sign up for a specific fixed period of at least 24 months. Thus the terms of the contract are unfair to consumers.



### 2.5 Coverage and speed

Complaints were received with regard to poor coverage and slow speed of internet services. On weekends and public holidays there is frequent break down of services. Agents' assurance of wide coverage and speed seldom materialize. One of the main reasons is aggressive marketing of limited bandwidth. A provider who fails to reach the standard set by the Commission shall be in breach of **Section 109 of CMA**, and on conviction shall be liable to pay a fine not exceeding RM200, 000.

## Subscription Television

### 2.6 Prices and bill disputes

There were many complaints regarding the frequent increase of charges for program packages. The service provider puts together a number of programs in a package to charge more

although consumers want only particular programs. There is also frequent revision of charges where the service provider manipulates program packages. Since satellite television is a virtual monopoly in Malaysia, consumers have no alternative but to accept the charges set.

## 2.7 Service disruption during rain

Satellite broadcasts are frequently disrupted during rainy weather common in a tropical country like Malaysia. The broadcasting agency has to date no solution to this problem. Subscription television does not invest enough to upgrade technology available to provide better service to consumers.

## 2.8 Poor customer service

This is one of the major grievances of consumers. There are no friendly complaints handling service. Giving consumers wrong advice when billing disputes are raised or when simple inquiries are made are the some of the complaints received from consumers against the service provider. Often consumers are required to wait for long periods before getting a satisfactory answer from its staff.

## 2.9 Repetitive programmes

Another major complaint against subscription television is that consumers continue to be provided with low quality repeat programmes and movies. There is no attempt by the service provider to address consumers' grouses in this respect or to convey consumers' complaints to the content providers. Under **Section 124 of CMA** the **MCMC** has a legal duty to monitor and report the operations and administration of this Act, on efficiency, quality, and rate paid by the consumers for services and any other matter the Commission thinks relevant to maintain the standard of the industry.

## 2.10 Too many advertisements

There are too many advertisements broadcast on satellite television. Consumers question the rationale for numerous advertisements, in between programs when it is not a free television service that has to depend on advertisements for income.

# 3.0 RECOMMENDATIONS

- 3.1 With regard to broadband internet services the Ministry concerned must ensure the current nationwide fibre optic cable infrastructure projects are carried out speedily, to cater for the wide coverage and speed demanded by internet users.
- 3.2 The Commission formed under **MCMCA** should ensure that the service providers deliver what they promise and it must also take action against service providers who fail to provide adequate services.
- 3.3 With regard to the sending of spam messages the MCMC must review, and if necessary cancel the licences of service providers who continue to flout the law. The current practice of imposing compound fines is not deterrent enough to stop the companies from sending spam messages.
- 3.4 Regular dialogue sessions must be held between the subscription television station, the MCMC and consumer groups to enable complaints to be heard and a better quality of service to be provided by the service provider.
- 3.5 The Minister should exercise his power conferred under the Act, to regulate the fee structures of all services by service providers.



# Report 4

## Future services

No.	Types of complaints
1.	Misrepresentation
2.	Misleading marketing
3.	Unfair terms of contract
4.	Poor customer service

### 1.0 INTRODUCTION

Future services means services that will be provided on a continuing basis. In 2009 there were 2,347 complaints received regarding future services. These concerned misrepresentation, misleading marketing and unfairness perpetrated on consumers by future services providers. Many consumers feel trapped and charged unfairly. Furthermore numerous complaints also have been received on poor customer service and unsatisfactory response from these service providers. Consumers are largely disappointed with the poor social responsibility of service providers since in many cases settlement cannot be reached by both parties.

mandatory for consumers to pay even when they do not use any of the services provided. Sales persons in order to achieve their target, mislead consumers by misrepresenting the terms of the contract.

**Section 18 of the Contracts Act 1950 and Section 10 of the Consumer Protection Act 1999** have clearly explained misrepresentation as summarized above and by virtue of **Section 112 of the Consumer Protection Act 1999** the Consumer Claims Tribunal has the right to set aside the contract. Consumers can also use the provisions of **Section 19(1) & (2) of the Act**, which sums up that when a contract entered into was either by coercion, fraud or misrepresentation becomes void at the option of the affected party.

### 2.0 CONSUMER ISSUES

#### 2.1 Misrepresentation

This means a false statement of fact made by one party to another party, which has the effect of inducing that party into the contract. A large number of complaints concern misrepresentation where consumers have been unduly influenced to sign contracts without the nature and terms of contract being explained to them. Consumers have complained that they were told that they could terminate the contract at any point of time. When consumers stopped using the service or facilities because of unsatisfactory service and intended to terminate the contract they were told that there was no exit clause. Therefore it is

#### 2.2 Misleading marketing

The future services industry normally exaggerates advertisements and misleads public to induce them to sign up through false information and pressure selling. Promotions and free trials are used to pull customers to their centres. For example advertisements promising weight reduction and cures for scars and acnes were made to convince consumers. These advertisements are used as bait.

Under **Section 13 (1)(a)&(b) of the Consumer Protection Act 1999**, no person may advertise for the purposes of supplying any product or services at a stipulated price without the intention



*Section 30 of the Contracts Act 1950 on the other hand comes to the rescue when there is “uncertainty of terms”, under which agreements that are not certain or capable of being made certain are void.*

of providing the products or services at that price, or if such promises cannot be fulfilled. **Section 15A (1) of Trade Descriptions Act 1972** provides that any statement made which is known to be false or any person recklessly making a statement which is false or any person making a statement with the intention to deceive or mislead the public constitute misleading statement.

### 2.3 Unfair terms of contract

In reality consumers complaints reflect unfair contract terms in the contract and it is imperative that one should read these terms carefully before signing up. Consumers generally trust the sales person and their convincing reasons and end up bound to the contract. An analysis of complaints indicates that agents of future service companies rarely if ever mention about exit clauses in the contract. This is unfair to the consumers who do not have equal bargain power.

**Section 17 of the Consumer Protection Act 1999** provides that a future services contract can be terminated by writing, action or orally, but in reality any form of termination is not accepted by service providers. Even after expressly informing their intention to cancel the contract, the service providers proceed to demand payment through legal notice. **Section 30 of the Contracts Act 1950** on the other hand comes to the rescue when there is “uncertainty of terms”, under which agreements that are not certain or capable of being made certain are void.

### 2.4 Poor customer service

Failure to handle customer matters professionally can cause frustration to customers. Many complainants say that they are rudely treated when they want to terminate or defaulted in payments. Consumers have the right to received good services from service providers but in reality many of them ended up paying huge sums and receiving poor service.

## 3.0 RECOMMENDATIONS

- 3.1 A standard code of ethical business practice should be introduced for all providers of future services, including fitness clubs. This must be consistently monitored by the Ministry of Domestic Trade, Cooperatives and Consumer Affairs (MDTCC).
- 3.2 The MDTCC should gazette future services under **Section 17 of Consumers Protection Act 1999** in order to curb numerous consumer problems with future services provided by fitness centres, beauty treatment saloons, hair care centres and others.
- 3.3 The MDTCC should implement meaningful consumer education programs that can help people solve their problems when purchasing goods and services.

## Report 5

# Quality of products and services

No.	Types of complaints
1.	Guarantees
2.	Delay in repairing products
3.	Product safety
4.	Unavailability of spare parts

## 1.0 INTRODUCTION

The National Consumer Complaints Centre (NCCC) received a total of 2,120 complaints in 2009. The complaints on unsatisfactory products and services are increasing. The complaints are mainly on electrical appliances, vehicles, electronic products and computers. One possible reason is the large scale dumping of cheap and low quality products imported or smuggled into the country.

replacements for defective products. There are traders who simply do not attend to such complaints because they classify it as wear and tears, an issue that is not specifically defined in Malaysian laws. Hence, no remedy is available in such cases. There are also complaints on express guarantees especially where defects cannot be rectified within the guarantee period.

## 2.0 CONSUMER ISSUES

### 2.1 Guarantees

Consumers complain about non-compliance with implied guarantees. Complaints received by NCCC are on poor quality, lack of after sales service, and non-compliance with description. **Section 32 of the Consumer Protection Act 1999** states that goods purchased shall have implied guarantee of acceptable quality. Further **Section 16 of Sale of Goods Act 1957** states that goods sold shall have implied guarantee of merchantable quality provided the customer did not examine the product before purchase. Many traders don't adhere to requirements that the products must be at acceptable and merchantable quality. Many traders have ignored consumers' demand to for after sales service or repairs or

### 2.2 Delay in repairing products

Consumers complain that some traders use delaying tactics to defeat the guarantee period. **Section 41 of the CPA** only provides that traders have to remedy the defect within a reasonable time. Consumers are advised that in the event a trader refuses to comply with guarantee requirements or a trader fails to rectify the product as soon as possible, they have the legal right to reject or get a refund or replacement for the goods or demand for compensation from the trader concerned. These rights of the consumer are stated in **Section 41 and 46 of the CPA**.

### 2.3 Product safety

NCCC has received complaints on defective new cars and motorbike engines, electrical appliances, hand phones and computers. There are complaints on products which have been certified



*NCCC has received complaints on defective new cars and motorbike engines, electrical appliances, hand phones and computers. There are complaints on products which have been certified by SIRIM, a body which certifies standards. In the event a particular product is defective, the entire batch of the product must be recalled and for safety reasons the sales must also be stopped.*

by SIRIM, a body which certifies standards. In the event a particular product is defective, the entire batch of the product must be recalled and for safety reasons the sales must also be stopped. **Section 20 of the CPA** provides that no supplier or manufacturer should supply or offer to supply any product that does not comply with the safety standards set.

#### 2.4 Unavailability of spare parts

Consumers complain that no spare parts are available immediately for products purchased or in some cases not at all, in particular with regard to motor vehicles, computers, hand phones and some electronic products. Usually the traders do not reveal to the consumers that some of the spare parts need to be imported specifically from overseas. **Section 37 of the CPA** makes it mandatory on the manufacturer and the supplier to ensure that facilities for repair and spare parts are reasonably available for a reasonable period after the goods are supplied.

### 3.0 RECOMMENDATIONS.

- 3.1 There must be more products included under SIRIM for quality and safety standard testing.
- 3.2 Regulations should be formulated quickly to implement **Part III of the CPA**.
- 3.2 The enforcement units of relevant government agencies should investigate the prevalence of sub standard products in the market.



# Report 6

## Public Transport

No.	Types of complaints
1.	Frequency of service
2.	Non compliance of fares
3.	Lack of adequate infrastructure
4.	Undisciplined drivers
5.	Poor CLVB and RTD responses

### 1.0 INTRODUCTION

Public transport is an issue that should be examined seriously by the authorities concerned. In 2009 the National Consumer Complaints Centre, (NCCC), received a total of 2,024 complaints on public transport. The main complaints were regarding non-compliance with time schedules and fare tables; undisciplined drivers; lack of infrastructure and poor response from the authorities. Consumers' complaints concern stage, express and feeder buses, taxis and limousine taxi cabs; light rapid transport lines (LRT); Keretapi Tanah Melayu (KTM) and commuter trains. It is pertinent for the authorities to solve the existing public transport problems faced by commuters before embarking on a new transportation paradigm.

### 2.0 CONSUMER ISSUES

#### 2.1 Frequency of service

Many complaints were received on non-compliance with time schedules by public transport companies. Public transport available currently is not comprehensive enough to meet public demand. The operators are seen to be more concerned with cost cutting rather than the public interest. Consumers are of the view that recurrent public transport problems are due to inefficiency of the Commercial Vehicle Licensing Board, (CVLB) and the Transport Ministry.

#### 2.2 Non compliance of fares

This complaint is directed mainly at taxis and some stage and express buses. Consumers have complained that taxi drivers still refuse to use the meter at peak hours and refuse to issue receipts by which consumers can lodge a complaint. Some stage and express bus drivers and conductors are also collecting extra charges without issuing a receipt in return. The **Consumer Protection Act 1999 (CPA)** makes it an offence not to issue a receipt when it is requested. A person who contravenes this provision is liable to a fine not exceeding RM50,000 or to imprisonment for a term not exceeding 3 years or both.

#### 2.3 Lack of adequate infrastructure

Many consumers have complained to NCCC about the lack of bus stops; vandalised bus stops and lack of bus services to many residential areas. Some of the public buses including express buses and taxis are not in a roadworthy condition thereby endangering the lives of commuters.

#### 2.4 Undisciplined drivers

The behaviour of bus and taxi drivers is another cause for concern. There have been many complaints regarding taxi drivers such as toutting; lack of knowledge on routes, dropping and picking passengers at undesignated places. Other



*Consumers' complaints concern stage, express and feeder buses, taxis and limousine taxi cabs; light rapid transport lines (LRT); Keretapi Tanah Melayu (KTM) and commuter trains.*

complaints made were on reckless and dangerous driving by the stage, express and taxi drivers. **Section 42 of Road Transport Act 1987**, provides that it is an offence to drive with disregard to all circumstances, and one who drives recklessly and dangerously for a first time shall be guilty of an offence and should be fined not exceeding RM6,000 or to imprisonment for a term not exceeding 3 years or both.

### 2.5 Poor CVLB and RTD responses

Consumers have complained that the RTD and CVLB have failed to eradicate effectively problems facing public transport. CVLB a statutory body and the RTD under the Ministry of Transport should play a pro active role in finding solutions to the shortcomings in public transport services. Many consumers have reported that there has been no feedback or action taken on their

complaints to the CVLB or RTD on public transport services and errant bus and taxi operators.

## 3.0 RECOMMENDATIONS

- 3.1 A school of Public Transport, with a comprehensive syllabus, must be set up under the proposed **Land Transport commission Bill**. This could give professional training to all those wishing to seek employment in the transport industry and elevate the public transport profession from being a low paying job to a professional career.
- 3.2 The proposed Bill must also set up a public transport tribunal to investigate complaints and other consumer issues arising from the use of public transport.

## Report 7

# Financial institutions

No	Types of complaints
1.	Assignment of non-performing loans
2.	Unfair interest, charges and penalties
3.	Fraudulent ATM transactions
4.	Unfair contract terms
5.	Misleading advertisements
6.	Credit tip-off services

## 1.0 INTRODUCTION

The National Consumer Complaints centre (NCCC) received 1,941 consumer complaints against financial institutions in 2009. Complaints were regarding financial institutions assigning non performing loans to debt collecting companies; imposing excessive charges and penalties on consumers; failing to prevent fraudulent Automated Teller Machines (ATM) transactions and heavily relying on credit tip-off services. The following are the details of these complaints.

## 2.0 CONSUMER ISSUES

### 2.1 Assignment of non performing loans

Financial institutions are assigning outstanding or non performing loans to debt collecting companies. Under **Regulation 3 of the Banking and Financial Institutions (Licensed Institutions) (Disposal of Non-performing Loans) (exemption) Order 2007**, made on the 8 May 2007 the Minister of Finance has approved such assignment. These non financial companies collect outstanding loans from the consumers by using strong arm tactics, like calling consumers after office hours at the place of residence and calling consumers repeatedly via phone for payment. Consumers are unable to bring their complaints to the Financial Mediation Bureau (FMB) because the dispute is between consumers and a company which is not licensed by the Bank Negara. The FMB only deals with



disputes between consumers and financial institutions or insurance companies.

### 2.2 Unfair interest, charges and penalties

Consumers are being imposed unfair charges such as late payment interest, charges on additional documents, annual fees for credit cards, penalty charges on early settlement of loans, fax charges and RM10 to RM50 to issue a simple statement of account document or search and enquiry, to a customer who has been servicing a loan for years. Financial institutions are penalising consumers for settling loans before the expiry of term. Some are charging about 3.5



% of total approved facilities for early settlement. These are unreasonable charges on the part of financial institutions. Consumers are also paying exorbitant credit card charges such as the current 18 per cent interest a year, annual fee between RM60 to RM90, late payment charges of 1%, coupled with other miscellaneous charges. Credit card related debt is one of the main causes of rising number of bankrupts in the country.

### 2.3 Fraudulent ATM transactions

NCCC received a total of 94 complaints in this category. Consumers have lost their money to fraudsters who are able to manipulate ATM systems. Banks are giving insufficient attention to this growing problem and tend to put the blame on consumers. Banks also do not have high technology fraud detection systems in place to prevent frauds. Some of them do not even have efficient CCTV facilities to detect such transactions. The current system used to detect frauds is very slow and consumers are only able to know of the investigations much later. Consumers are losing a lot of money to such frauds.

### 2.4 Unfair contract terms

Loan agreements are drawn up unilaterally by the institutions incorporating terms to protect their interests but unfair to consumers. For example financial institutions, reserve the right to vary the interest rate on the loan granted; the right to take vacant possession of the property for default of payment without court proceedings. According to the loan agreement during the subsistence of the loan and until a separate title is issued, the consumer is only a temporary occupant or licensee. So when consumers' defaults on payment the institutions take vacant possession and dispose off the subject property without resorting to any legal proceeding.

### 2.5 Misleading advertisements

Financial institutions continue to publish misleading advertisements to influence consumers to sign up for financial accounts and

investment packages. Phrases such as "millions to be won, first 100 to sign up for new accounts could win a gold bar" are commonly used to lure consumers. Many of such advertisements are not only unethical but also contain numerous conditions and terms in fine print which are not made known to the consumer. Such misleading advertisements and promotions are prohibited under **Section 28 of the Banking And Financial Institutions Act 1989 (BAFIA) and Part II of the Consumer Protection Act 1999.**

### 2.6 Credit tip-off services

Some financial institutions rely on credit tip-off service companies when they need personal information on consumers. These companies collect consumers' personnel information from the public domain, like newspapers, magazines, court postings and government gazettes. Sometimes the information provided by these companies is out of date or wrong. The financial institutions do not make any effort to obtain the latest information on the status of consumers and therefore turn down requests for facilities without giving any reason for the rejection.

## 3.0 RECOMMENDATIONS

- 3.1 Bank Negara must immediately restrain financial institutions from assigning non performing loans to non financial institutions.
- 3.2 Bank Negara must ensure that the financial institutions immediately adopt new technology to prevent ATM fraudulent transactions.
- 3.3 Bank Negara has to ensure that financial institutions do their own investigations on the status of consumers who seek financial facilities, instead of relying on credit tip-off service companies only.
- 3.4 Bank Negara must issue guidelines on terms and condition in agreements signed between consumers and institutions to protect the interests of both parties.



## Report 8

# Hospitality

No.	TYPES OF COMPLAINTS
	<b><i>Time Share</i></b>
1	Misrepresentation
2	Availability of facilities
3	Cooling off period
	<b><i>Travel and Tour Agencies</i></b>
1	Misrepresentation
2	Last minute cancellation
3	Hidden charges
4	Unfair contract terms

### Time Share

#### 1.0 INTRODUCTION

Time share is a business of marketing, operating and managing a time share membership scheme which provides and co-ordinates holiday accommodation packages at holiday resorts in Malaysia and overseas. A time sharing facility is basically “a purchase of the right of use of holiday accommodation for a specific time (usually a week per year) for between twenty to thirty years or more. The time share industry is under the purview of **Section 84, Companies Act 1965** and the policy guidelines issued by the Companies Commission regulate the industry. There were 1,613 complaints in this category for 2009. Most of the complaints centred on misrepresentation by agents of time share companies; lack of facilities and disregard for the ‘cooling off period’.

#### 2.0 CONSUMER ISSUES

##### 2.1 Misrepresentation

Agents of companies often use persuasion to sell time share memberships. The agents will also misrepresent to potential buyers, the privileges and benefits of membership. Buy back of memberships, rental income from unused units

and high resale value are the carrots dangled to potential buyers. Some agents promise that many resorts will be built all over the country in time to come. All these are of course not true. This is clear indication of inducement on the part of the time-share companies, where accurate information is not provided to consumers.

**Section 18(a)-(c) of the Contracts Act 1950 (CA 1950)** make misrepresentation a breach of duty with the intention of misleading another party into entering a contract. The affected party can rely on **Section 19(1) & (2) of the Act** to make void the contract on grounds of such misrepresentation. Any affected party has the right to insist that time share companies honour their part of the contract, should any breach be discovered.

##### 2.2 Availability of facilities

Consumers complain that accommodation units are not available at short notice. Bookings in fact have to be made up to three months in advance. This is because the operators of time share facilities do not build and operate resorts as their agents promise but in fact rent a few units in condominiums in some major towns and then oversell memberships. Frequently such units are located far from town with have few facilities.

Members then have to incur additional cost on transport and meals. This causes a great deal of frustration to members.

### 2.3 Cooling off period

Time share companies are governed by the **Direct Sales Act 1993** where **Section 23** of the Act provides that all contracts for goods and services are subject to a cooling of period of 10 working days. A copy of the contract must be given to the buyer. These procedures are in reality not practised. Sales agents also do not inform buyers of the cooling off period whereby they can reconsider their options and cancel the agreement if they wish to.

## 3.0 RECOMMENDATIONS

- 3.1 The Ministry of Domestic Trade, Cooperatives and Consumer Affairs and the Malaysian Holiday Timeshare Developers' Federation (MHTDF) must speed up their efforts to draft a unified code of ethics and introduce policy guidelines for stronger consumer protection. As a condition of membership, members should be required to adopt the Code of Ethics and Constitution of the Federation.
- 3.2 The MHTDF must take proactive steps to ensure the industry is regulated, especially so as there are many time-share companies operating in Malaysia that are not registered with the MHTDF, and neither do they have direct sales licences to operate.

## Travel and Tour Agencies

### 1.0 INTRODUCTION

Travel and tour agencies in Malaysia are governed by the Tourism Industry Act 1992 which regulates the activities of travel and tour agencies. Some travel and tour companies have been



*Consumers complain that accommodation units are not available at short notice. Bookings in fact have to be made up to three months in advance. This is because the operators of time share facilities do not build and operate resorts as their agents promise*

blamed by consumers for profiteering by failing to carry out proper travel packages or misrepresenting travel packages. There were 613 complaints against travel and tour agencies in 2009 mostly on misrepresentation; hidden charges; last minute cancellations and unfair contract terms.

## 2.0 CONSUMER ISSUES

### 2.1 Misrepresentation

Travel and tour agencies often misrepresent prices or services provided on package tours. In such cases the consumer may end up paying more for the package compared to the actual price in the advertisement. This is particularly rampant during travel promotions such as the MATTA Fair.

**Section 18 (a)-(c) of the Tourism Industry Act** lists the requirements for advertisements by travel and tour agencies. Licensed tour agencies must state their licence number, business name and specify the services offered to the public.

**Section 7A (a) & (b) of the Trade Descriptions Act** outlines the liabilities of advertisers related to trade description in any advertisement. Hence, travel and tour agencies must be responsible for information advertised in the electronic and printed media. However, in reality this is not the case since many have complained that these travel and tour agencies often omit material facts on prices and services offered.

A misrepresentation on advertisements is considered “bait advertising”. **Section 13 of the Consumer Protection Act 1999** states that no person shall advertise to supply at specific prices goods or services they do not have reasonable grounds to believe can be supplied during the period stated and in the quantities advertised.

## 2.2 Last minute cancellations

Another complaint is on last minute cancellations which are frequently practised by travel and tour agencies. One of the most common excuses is that there are not enough participants for the tour. This causes great inconvenience and financial loss to participants who have made their travel preparations. This unethical practice must be stopped immediately.

## 2.3 Hidden charges

Travel and tour companies often include hidden charges in packages bought whereby consumers end up paying more because the travel and tour companies do not highlight these charges when participants sign contracts. **Part II Section 10 of the Consumer Protection Act 1999** provides that no person shall make false representations with regard to any characteristics of a product or service with the intention to deceive the public.

## 2.4 Unfair contract terms

Contracts for tour packages which participants often do not read in full will contain ambiguous and hidden clauses to the detriment of the tour purchaser. These clauses give many advantages to the tour company and usually favour the travel and tour companies. If something untoward were to happen, the agencies would have exclusion clauses in the agreement to stave off claims or action from the customers.

Contracts between two or more parties are essentially binding and if there a breach, the aggrieved party can cancel the agreement and claim damages. **Section 38(1) of Contracts Act** stipulates the obligations of parties to the contract: parties to a contract must perform their respective duties and failure to do so means breach of the contract. Similarly, under **Section 40 of the Act**, a party to a contract may cancel it if the other parties refuse to perform the contract.

## 3.0 RECOMMENDATIONS

- 3.1 The Ministry of Tourism must ensure all travel and tour agencies formulate a codified Standard Operating Procedure to ensure comprehensive consumer protection in instances where consumers are held at a disadvantage by the terms and conditions of a tour and travel agreement.
- 3.2 MATTA must also work closely with the Ministry of Tourism as well as the Malaysia Tourism Promotion Board (MTPB), to create public awareness of the tourism industry and also prohibit any unscrupulous activities by the travel and tour agencies.
- 3.3 The Malaysian Association of Tour and Travel Agents must ensure its members refrain from unethical trade practices, such as pressuring consumers to purchase or join optional tour programmes. The prices of optional tours must not be raised without written notice to their customers.

## Report 9

# Government agencies and services

No.	Types of complaints
1.	Delay and poor services
2.	Negligence

### 1.0 INTRODUCTION

Government agencies and services is a new category of complaints instituted in 2009. NCCC received a total of 1,563 consumer complaints for this category in 2009. The complaints were mainly about services carried out by government departments. Consumers complained that services rendered to consumers were poor or delayed and there was also negligence in the way in which services were carried out.

### 2.0 CONSUMER ISSUES

#### 2.1 Delay and poor services

The highest number of complaints was on delay and poor services by government agencies. Often government staff was not really friendly and rendered poor services to consumers who sought their help in solving consumer issues. Complaints forwarded to government agencies pertaining to consumer issues were not entertained and ignored without any action taken. One example is a case involving a local council which engaged a contractor to spray pesticides in a neighbourhood. However because of his negligent spraying, flower plants in a consumer's house were destroyed. After numerous complaints the problem still persists.

#### 2.2 Negligence

Government agencies have also acted negligently

when they deal with consumer's issues. Government agencies will not look seriously into problems suffered by consumers and often give decisions against consumers. Government agencies normally do not investigate or make any clarification on the matters which is forward to them and they will take their own time which leaves such matters unresolved. An example of such a case refers to the EPF where a complainant had applied for withdrawal of funds for medical treatment. However the complainant's request was made more difficult by EPF asking many documents to be adduced in order for the application to be approved. After approval at the initial stage, a month later it was stated that the application was rejected.

### 3.0 RECOMMENDATIONS

- 3.1 The Public Complaints Bureau must take stringent action against such government agencies and also monitor their daily work for the benefit of public.
- 3.2 Local Councils must play a vital role in resolving any disputes between them and consumers where local government services are not satisfactory.
- 3.3 The Ministry of Local Government and Housing must set standard rules and regulations for local councils' services to the public so that an acceptable standard of performance and efficiency is implemented.



# Report 10

## Hire purchase

No.	Types of complaints
1.	Repossession of vehicles
2.	Hire purchase agreements
3.	Misrepresentation
4.	Zero down payment

### 1.0 INTRODUCTION

There was an increase in the number of complaints on hire purchase (1,478) in 2009 compared to 2008. The large number of complaints in 2009 should be viewed seriously because of the fact that many items are obtained by consumers through hire purchase. Vehicles are widely obtained through hire purchase. Hire purchase contracts put consumers, the borrowers in a vulnerable position compared to lenders. A major complaint by consumers is the unethical way in which financial institutions repossess vehicles.

### 2.0 CONSUMER ISSUES

#### 2.1 Repossession of vehicles

Repossession of vehicles remains a major headache to consumers. The unprofessional conduct and method used by vehicle repossessioners tops the number of complaints received by NCCC in this area. Although consumers have approached the financial institutions to resolve their problems the response received from them has been poor. Car repossessioners trespass into the hirer's house or office without the knowledge of the hirer and usually threaten the hirer or his family when taking control of the vehicle. Financial institutions should be aware that hirers can sue them for criminal trespass and intimidation committed by their repossessioners.

#### Section 16 (4) of the Hire Purchase Act 1967

provides methods of repossessing a hirer's car which is recognised by law. The first step is to give sufficient notice in the event of default of payment. Once the owner takes possession of the goods, he shall provide the hirer a document acknowledging receipt of the goods. In reality, these procedures are ignored.

#### 2.2 Hire purchase agreements

428 complaints were received regarding misleading and ambiguous terms in hire purchase agreements which mislead consumers and infringe their rights. Complaints received reflect that there is no clear indication as to the terms and conditions and poor explanation on consumers rights. Consumers also complaints that lengthy terms and clauses are impossible to be read fully by anyone and this is an added advantage for financial institutions.

#### 2.3 Misrepresentation

Misrepresentation is rampant among sales agents. The most common type of misrepresentation would be on year of manufacturer of a particular vehicle; delivery dates; accessories; and trade in value. Sales agents normally work on a small basic salary and bulk on their income is derived from commissions. These agents would therefore misrepresent to consumers in order to facilitate sale of vehicles.



*Car dealers can be commonly seen advertising to the public that 100% loan is provided to potential vehicle purchasers in complete disregard to the ruling on a 10% down payment by purchasers.*

The dealers commonly avoid liability by blaming the sales agent who made such a representation or they would say that the sales agent has been dismissed as they were too many complaints against him. Most of the time it is very difficult to prove misrepresentation as it would normally be done verbally.

**Section 8(3) of the HPA 67** gives the presumption that the hirer can claim for damages or losses for any false statement made by the agents or dealers. Under **Section 36(a) and (b) of the Act**, the dealer or its agents commit an offence if an agreement is known to include a false statement or a representation that is false.

## 2.4 Zero down payment

Car dealers can be commonly seen advertising to the public that 100% loan is provided to potential vehicle purchasers in complete disregard to the ruling on a 10% down payment by purchasers. This is done in order to attract potential buyers and fulfil sales quotas. It is only at the later stage that the hirer gets caught up with provisions that require the 10% down payment.

**Section 31(1) of the HPA 67** states that it is an offence for an owner to enter into a Hire Purchase agreement without the stipulated payment of 10% deposit on the cash price of the car.

## 3.0 RECOMMENDATIONS

- 3.1 The Ministry of Domestic Trade, Cooperatives and Consumerism (MDTCC) should strictly enforce the Hire Purchase Act 1967 as it is a law under their purview and punish all parties contravening the law.
- 3.2 To protect consumers all financial institutions must be forced to register all their repossessionors and fix storage and towing fees in consultation with MDTCC.
- 3.3 MDTCC must inform all consumers who have been victimised by repossessionors and financial institutions to register their complaints with them in detail to enable follow up action to be taken. This is important as the police do not want to handle such cases.
- 3.4 MDTCC must be proactive in investigating how repossessions are done in other countries to spare consumers much anguish and suffering. A system where financial institutions have to obtain court orders for repossession must also be considered.

## Report 11

# Management of Strata Title Properties

No.	Types of complaints
	<i>Joint Management Body (JMB)</i>
1	Delay in setting up of JMB
2	Exorbitant maintenance charges
3	Failure in maintaining a separate account
	<i>Management corporations (MC)</i>
4	Failure to discharge duty

## 1.0 INTRODUCTION

This is major consumer complaints category within the housing industry. The National Consumer Complaints Centre (NCCC) received a total of 1361 complaints relating to the management of strata title buildings. The following are the main complaints received from the parcel owners of strata buildings.

## 2.0 CONSUMER ISSUES

### Joint Management Body (JMB)

#### 2.1 Delay in setting up of JMB

Parcel owners complain that developers delay calling all purchasers of strata title units for 1st meeting, to set up a Joint Management Body, (JMB) as per **Section 4 of Building and Common Property Act 2007 (BCPA)**. The JMB is responsible to provide “maintenance and management services” to the common area of apartments and condominiums, for the benefit of the residents, till the formation of Management Corporation (MC). Once the MC is formed under the **Strata Title Act 1985 (STA)** then the said services are continued by the MC.

A JMB, represented by the developer and purchasers, must be established within 12

months, from the date of delivery of vacant possession to the purchaser, as per **Section 4 (1) (b) of BCPA**. However, due to the failure of the developer, the parcel owners are unable to exercise their statutory rights conferred in the BCPA. **Section 4 (1) (a) of BCPA**, allows the developer and the parcel owners, to form the JMB to elect a Joint Management Committee, (JMC) to jointly decide on maintenance charges, take control of the insurance effected by the developer, maintaining and auditing the Building Maintenance Fund and providing financial statements to purchasers, fixing house rules, collecting car park fees and rents, rate of interest payable for late payments, etc. These are some of the essential rights that parcel owners are unable to exercise.

**Section 5 (5) of BCPA** clearly imposes a legal duty on the developer to call all purchasers within the stipulated period to form the JMB, failing which the developer commits an offence and shall be liable to a fine not exceeding RM20,000 or to imprisonment not exceeding 3 months or both.

#### 2.2 Exorbitant maintenance charges

The NCCC also received many complaints from parcel owners, that developers are imposing exorbitant charges for maintenance and management of common property. Before April



*“... developers often use oppressive tactics to recover maintenance charges owed by parcel owners such as harassing them or threatening to harm their families if they do not pay up the charges owed. ... This is an unfair and oppressive practice on the part of these developers.”*

2007 a developer was solely responsible for raising the required monthly expenses from parcel owners to provide the maintenance services to the common area of the buildings until the formation of MC. However after the BCPA came into effect in April, 2007 a JMB is established under this Act, to replace a developer who was providing such services.

However the developer continues to play an important role in providing such services prior to the formation of JMB. **Section 5(4) of BCPA** allows the developer to maintain and manage the property before the JMB is formed. The developer takes advantage of this and continues to charge an exorbitant service charge on parcel owners.

Such developers often use oppressive tactics to recover maintenance charges owed by parcel owners such as harassing them or threatening to harm their families if they do not pay up the charges owed. Another tactic is to clamp the water meter. This is an unfair and oppressive practice



on the part of these developers. Such a move by the developer essentially denies the resident's right to access water. **Section 35 of STA** states that parcel owners or residents have the basic right to support service and shelter which includes access to water.

**Section 5 (5) of BCPA** clearly imposes a legal duty on the developer to call all purchasers to form the JMB, failing which the developer commits an offence and shall be liable to a fine not exceeding RM20,000 or to imprisonment not exceeding 3 months or both.

### 2.3 Failure in maintaining a separate account

There are many complaints on developers who have failed to maintain a Building Maintenance Account in the name of the development area with a bank in accordance with **Section 16 (1) of BCPA**. This is a separate account which receives



all charges collected from purchasers for the maintenance and management of the common property of the building as stated in the **Section 17(1) of BCPA**.

There is no transparency when the developer fails to operate such a separate account and deposits the said charges collected from the parcel owners into the developer's own account. Thus the surplus charges if any after deduction for maintenance and management of the common area collected from the parcel owners cannot be transferred into the "Building Maintenance Fund," to be managed by JMB, as stated in **Section 22 (1) of BCPA**.

A developer who fails to comply with this requirement commits an offence under **Section 16 (7) of BCPA** and shall be liable to pay a fine not exceeding RM10,000 but not more than RM100,000 or RM1,000 for every day during which the offence is continued after conviction.

## Management corporations (MC)

### 2.4 Failure to discharge duty.

NCCC received many complaints on the improper discharge of duty by the MC, formed under **Section 39 of STA**. The majority of complaints concern the failure of the MC to carry out its duties as provided under **Section 43 of STA**. The MC is also unable to collect management charges and administer the expenses wisely as provided for under **Section 45 of STA**.

Consumers who are dissatisfied with the MC can forward their complaints to the Strata Title Board formed under Section 67A of STA.

It is up to the Board to decide whether or not there is merit to the complaints from the affected parcel owners. **Section 67A to 67X of STA** give a range of powers to the Board to exercise. It may for example, invalidate or declare a by-law made by the MC as void, invalidate elections or resolutions passed by the MC, order to vary the interest rates or insurance, settle dispute on cost of repairs, call

witness etc and on conviction a developer can be fined not exceeding RM10, 000 or imprisonment for a term not exceeding 2 years under **Section 67 V of STA**.

## 3.0 RECOMMENDATIONS

- 3.1 The Ministry of Housing and Local Government must ensure that developers form the JMB within the stipulated time.
- 3.2 The do's and don'ts of the parcel owner are clearly stated in the STA, and BCPA. Hence awareness to that effect is a must and the authority concerned should carry out an education programme nationwide for strata title owners.
- 3.3 The State Authority should exercise its vast power conferred under **Section 81 of STA**, to make the required rules for more efficient and effective running of the MC.

## Report 12

# Insurance

No.	Types of complaints
1.	Fraud
2.	Misrepresentation
3.	Ambiguous terms in the contract
4.	Poor customer service
5.	Unfair claims settlement
6.	Delay in settling claims

### 1.0 INTRODUCTION

In 2009, the number of complaints received by the National Consumer Complaints Centre (NCCC) was 1,360, compared with 809 recorded in 2008. The continued convergence of financial markets, growing consumer awareness of their rights and the depressed investment conditions following the current global economic crisis have resulted in insurance companies undermining policyholders' rights by delaying the settlement of insurance claims, practising unfair settlement tactics and also misrepresenting information to policy holders.

### 2.0 CONSUMER ISSUES

#### 2.1 Fraud

People in urban and rural communities fall victim to cheating by insurance agents. An example of a complaint in this respect is when the insurance agent has run away with the money paid for premium by the policyholder. The body which governs the activities of the insurance companies such Persatuan Insurance Am Malaysia (PIAM) must take stringent action against insurance companies whose agents cheat policy holders.

#### 2.2 Misrepresentation

Some of the cases NCCC received involve agents making false claims to clients on the

financing of their policies. Agents promise that if the insured pays a certain amount in premiums for a certain period of time, the policy would automatically finance itself afterwards. However, the insurance company still demands premiums even when this period is over, and upon checking the consumer finds out that this matter was misinterpreted by the agent. Therefore, consumers are burdened with additional payments that have to be paid to the insurance company.

#### 2.3 Ambiguous terms in the contract

Some terms or clauses in the contract signed by the policyholder with the insurance company are negligently drafted, leading to ambiguity and gives a negative impact to the policyholder. When a problem arises, such ambiguous terms are interpreted to the advantage of the insurance company. Policyholders in rural areas and those not well educated are the ones who largely fall victim to such ambiguity.

#### 2.4 Poor customer service

The problem affecting consumers is that insurance agents do not entertain consumers' complaints once premiums have been settled. Insurance companies do not want to entertain or accede to insurance issues brought up by consumers. Company personnel are not really competent enough to solve the issues or to



*Agents promise that if the insured pays a certain amount in premiums for a certain period of time, the policy would automatically finance itself afterwards. However, the insurance company still demands premiums even when this period is over.*

explain in depth issues brought to them. The insurance companies have to provide more efficient, effective and trained personnel to handle consumer issues.

## 2.5 Unfair claims settlement

This problem can be traced back to the contract signed by the policyholder and the insurance company. Our finding is that most of the problems arise because of false promises by the agent or ambiguous terms in the contract. In cases of road accidents involving repairs to vehicles, some insurance companies refuse to honour claims on grounds that the workshop used by the client is not on their panel. Insurance companies often do not provide a list of their panel of workshops; hence the insurer is free to go to any workshop. Ambiguous terms mean agreements that are not certain and open to different types of interpretation, usually unfavourable to the insured.

## 2.6 Delay in settling claims

Numerous complaints have been received against agents and insurance companies regarding the delay in processing the insured's claims. Some claims can take up to several years before the insured is reimbursed. NCCC believes that there has to be a combined effort on the part of industry players, Bank Negara Malaysia as the regulator and the insurance association (PIAM) to reduce these cases of delay in the settlement of claims.

## 3.0 RECOMMENDATIONS

- 3.1 Consumers have the right to be compensated for misrepresentation, shoddy goods or unsatisfactory services through redress mechanisms. Apart from the Financial Mediation Bureau, insurance companies should establish complaints redressal mechanisms at company level to resolve consumer problems speedily.
- 3.2. There must not be any vague or ambiguous terms and conditions in policies which are unfavourable to the consumer.
- 3.3. Insurance companies must comply with industry standards, and practice self regulation to ensure proper check and balance.

## Report 13

# Automobiles

No.	Types of complaints
	<b>Manufacturer</b>
1.	Manufacturing defects
2.	Delay and unfair settlements
3.	Poor customer service
	<b>Workshops</b>
4.	Exorbitant charges, poor workmanship and delay

### 1.0 INTRODUCTION

The number of complaints received purely on the automobile industry has been alarming with total complaints numbering 1,314 in 2009. This should be viewed seriously due to the fact that many consumers were not satisfied with the quality of vehicles purchased. Customer service provided by manufacturers and dealers was also below average. Consumers were disappointed with this situation because unlike other goods and services, vehicles are expensive, meant for long term use and should be safe to use.

### 2.0 CONSUMER ISSUES

#### Manufacturer

##### 2.1 Manufacturing defects

Many complaints received were regarding manufacturing defects. This involved defects to engines and other important parts of vehicles. Consumers' main complaint is that manufacturers refuse to either replace or make refunds knowing full well that the vehicle is not of merchantable or satisfactory quality. Many complainants raised the question as to why they should they accept a product when the problem with it is unresolved and manufactures and dealers fail to take responsibility.

**Section 16 of the Sales of Goods Act 1957 and Section 46 of the Consumer Protection Act 1999** provide that consumers have the right to receive products which are reasonably fit for the purpose and of merchantable quality. **Section 46** on the other hand gives consumers an undeniable right to either a refund or a replacement.

##### 2.2 Delay and unfair settlements

Consumers complain that manufacturers and dealers take long time in resolving their problems. Consumers complain that manufacturers and dealers only rectify current problems when reported. Seldom do they resolve all the problems with the vehicle. As such consumers are very disappointed that they have to take delivery of vehicles which still have some problems. Consumers would rather return such a vehicle for a replacement.

##### 2.3 Poor customer service

Poor customer service also reflects badly on the automobile industry. Consumer complaints clearly reflect their disappointment on the poor customer service that they receive. Professionalism is expected because of the price range of the product. Unreasonable delay as discussed above is one of the factors which reflect this issue.





*Complaints against workshop have been an unresolved matter for years. Currently there are no regulations governing the service provided by workshops. Exorbitant charges, poor workmanship unreasonable delay, fraud and misrepresentation are the basic complaints that NCCC has received against workshops.*

## Workshops

### 2.4 Exorbitant charges, poor workmanship and delay

Complaints against workshop have been an unresolved matter for years. Currently there are no regulations governing the service provided by workshops. Exorbitant charges, poor workmanship unreasonable delay, fraud and misrepresentation are the basic complaints that NCCC has received against workshops. Many have experienced poor service such that the same problem persisting. Consumers are also cheated with workshops using imitation spare parts.

- 3.2 MDTCC Enforcement Division should handle and monitor consumer complaints with regard to vehicles purchased in order to ensure that people are not being victimized by their poor bargaining power.
- 3.3 Section 46 of the Consumer Protection Act 1999 and Section 16 of the Sales of Goods Act 1957 should enforce strictly in order to protect consumers and ensure replacements or refunds are made for poor quality products purchased by consumers.

## 3.0 RECOMMENDATIONS

- 3.1 MDTCC should enforce the Consumer Protection Act 1999 on the automobile industry and the Enforcement Division should respond promptly on complaints of defective new cars and exorbitant charges by workshops.

## Report 14

# Retail trade

No.	Types of complaints
1.	Misleading marketing
2.	Defective products
3.	Misleading price
4.	Poor customer service

### 1.0 INTRODUCTION

Retail trade continues to be characterised by many weaknesses. Misleading marketing is widely practised to lure consumers. This is coupled with misleading prices, where prices are manipulated to deceive consumers. Consumers complain of defective products that they have purchased and the poor customer service practised by retail outlets.

### 2.0 CONSUMER ISSUES

#### 2.1 Misleading marketing

A common tactic to trap consumers is by placing attractive banners advertising sales of goods with phrases like “**while stocks last**” without specifying a time frame as required by law. Similarly traders advertise goods at discounted prices without any real intention of doing so. These goods are often found to be either old stock or marked up in price with a discount.

**Section 13 of the Consumer Protection Act 1999** (CPA) prohibits sale of limited goods where the amount and time frame is not specified. **Section 14 of the Trade Descriptions Act 1972** (TDA), states that any person offering to supply goods of any description who gives a false indication of the price shall be guilty of an offence.

#### 2.2 Defective products

Defective products obviously reflect disregard for public safety. Consumers lose trust and respect for companies and traders who sell such products. They are even more disappointed when they return such products and the other party treats it as a petty issue. Traders should treat all such complaints in a professional manner and provide satisfactory customer service to consumers.

Regulation 35 of Food Regulations 1985, clearly explains that no one shall import, prepare or advertise for sale or sell any food contained in any damaged package or container. Similarly under Regulation 14 (7), no one shall prepare or advertise for sale or sell any food, unless the packaging contains the dates of manufacture and expiry. Finally under Section 15 of Food Act 1985, anyone who prepares, packages, labels or advertises any food that does not comply with that standard is liable upon conviction to imprisonment for a term not exceeding three years or a fine.

#### 2.3 Misleading price

Many consumers complain that retailers are often found to practice misleading pricing for example a higher price is punched in compared to the shelf or tag price. When this is pointed out the common tactic of retail traders is to give a refund of the balance and apologize when it is proven that they displayed a misleading price. Consumers have reported that such retailers quickly changed the



*Many consumers complain that retailers are often found to practice misleading pricing for example a higher price is punched in compared to the shelf or tag price. When this is pointed out the common tactic of retail traders is to give a refund of the balance and apologize when it is proven that they displayed a misleading price.*

misleading price when complaints are lodged with them initially.

As for the punitive measures against traders committing such price fixing or dubious pricing, **Section 25(1)&(2) of the CPA** states that any person found guilty of price fixing shall be liable to a fine not exceeding RM250,000 and for a second or subsequent offence, to a fine not exceeding RM500,000.

## 2.4 Poor customer service

Complaints are received on poor customer service mainly because the staffs of retail traders disregard professionalism when attending to consumer complaints and this reflects badly on retail traders. Consumer complaints are usually related to poor customer service such as inexperience in handling customers complaints and secondly inaction on the part of their management when complaints are lodged against their staff.

conduct regular checks on retail outlets and hypermarkets to check displayed prices. There should be a proper system in place to check safety of products. **Part III of the CPA** should be implemented immediately to safeguard consumers' safety.

**3.2 The Food Safety Information System of Malaysia (FOSIM)** must give priority to promoting consumer awareness on food safety issues in all programmes carried by the agency involved.

**3.3 The Ministry of Health** should take severe action against traders who offer defective and expired food products. Results of tests and advice should also be given to complainants or organizations which send goods for lab testing. Furthermore, the progress or action taken must be informed to complainants, the public and media so as to create awareness.

## 3.0 RECOMMENDATIONS

**3.1 Ministry of Domestic Trade, Cooperatives and Consumerism (MDTCC)** should effectively and closely monitor advertisements of goods and services. They should implement **Part II of the CPA** seriously. They should also



## Report 15

# Electricity & Energy supply

No.	Types of complaints
1.	Faulty meters
2.	Billing disputes
3.	Power disruptions
4.	Meter tampering

## 1.0 INTRODUCTION

There were 949 complaints in 2009, compared to 926 in 2008. Consumers complaints reflect their disappointment with the service they have received over the years. Tenaga Nasional Berhad as the sole supplier of electricity to households is expected to have a suitable customer service and a professional complaints handling system.

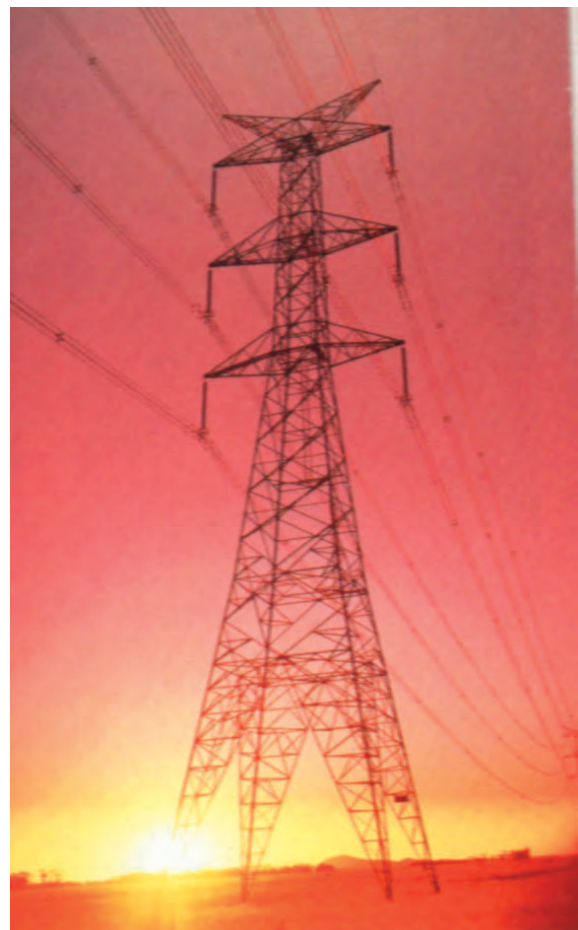
## 2.0 CONSUMER ISSUES

### 2.1 Faulty meters

Wrong meter reading due to defective or faulty meters has caused problems to consumers, especially when they are charged rates above their previous monthly bills. Higher charges also result when meters are replaced. When such complaints from consumers are not resolved, power is cut to their premises. This results in hardship to these households and they have to pay reconnection fees. Consumers are unhappy that their complaints are not investigated properly

### 2.3 Billing disputes

Billing disputes is another area of complaint. Service providers sometimes provide estimated billing charges when meters cannot be accessed. Subsequent readings result in consumers paying what they see as more than their normal bills. There should be a proper system for the service



*Power outages and power surges are quite common in this country. This issue has been there for a long time. It will help where if consumers can be advised of this in advance.*



provider to explain to consumers how and why the higher bill has resulted.

## 2.4 Power disruptions

Power outages and power surges are quite common in this country. This issue has been there for a long time. It will help where if consumers can be advised of this in advance. Where notices are given earlier, consumers can at least prepare themselves for the power cut. Recent complaints statistics show an increase in consumer complaints on frequent power disruptions. Power surges which damage electrical equipment should be investigated thoroughly by the service provider and compensation paid for the loss suffered if indeed it is found to be true.

## 2.5 Meter tampering

Meter tampering has been highlighted before and it remains an area of concern in 2009 as well, with consumers complaining of excessive charges despite their electricity usage being less. The service provider should investigate if there has been any meter tampering and the possible source of such tampering. Under **Section 37(3) of the Electricity Supply Act 1990** it is an offence if anyone alters or prevents any meter from producing actual output of electricity consumption. Anyone found guilty from the offence stated as above can be fined not exceeding RM 100,000 or to an imprisonment for not more than three years or both.

## 3.0 RECOMMENDATIONS

- 3.1 Tenaga Nasional Berhad as the sole provider of electricity must establish a professional and fair complaints handling system to handle consumer complaints. It should establish a consumer complaints tribunal to refer consumer disputes which cannot be resolved between them
- 3.2 Electricity meters should be calibrated regularly to ensure correct readings. Meter readers should be trained to handle consumers queries and questions. There should be a hotline for consumers to seek clarification.
- 3.3 The Ministry concerned should also consider a review of the law so that the provision on penalties can be addressed to improve the level of service to the public.

## Report 16

# Job recruitment agencies

No.	Types of complaints
1.	Offers of non-existent jobs
2.	Failure to refund fee
3.	No written contract provided
4.	Misrepresentation
5.	Unlicensed agencies

## 1.0 INTRODUCTION

Job recruitment agencies have been victimising consumers for a long time. They target the young, the unemployed and senior citizens looking for jobs on a part-time or fulltime basis. 'Work from Home' agencies are also included as they too have victimised numerous people with their bogus job offers. It is surprising to see how such parties continue to perpetuate their fraud in spite of the numerous laws under various departments of government. People desperate for jobs pay to register for jobs that do not materialize. Stuffing of envelopes or assembling kits "from the comfort of the home" are some of the common scams by which consumers are cheated. NCCC received 832 complaints about employment scams in 2009.

## 2.0 CONSUMER ISSUES

### 2.1 Offers of non-existent jobs

Job scams require applicants to pay non refundable administration or consultation fees. They are also asked to sign contractual agreements which contain many escape clauses to justify the collection of fees and as such cannot be enforced. These are all scams with empty promises just to collect fees job seeking applicants. Their fraudulent conduct contravenes provisions in the **Private Employment Agencies Act 1981**, and also the **Consumer Protection Act 1999**.

### 2.2 Failure to refund fee

The victims of the job scams are young people who have just graduated or are school leavers who are unable to check the background of the job agencies before they pay these agencies administrative fees of between RM130 and RM180 to search for jobs. When these agencies are unable to secure any jobs for the applicants, the fee paid is considered remuneration for the work done and therefore non-refundable.

**Section 14 (1) (Fees for Services) of the Private Employment Agencies Act 1981** states that no private employment agency shall charge a fee for its services other than for that stated in the Schedule, and issue a receipt for every fee received.

Similarly under **Paragraph (iii) of the Private Employment Agencies Act 1981 on Registration Fees**, states that:

- i.) Fee charged for registration of all categories of local employment, to be valid for multiple employments and for a period of 12 months: Not more than RM12.
- ii.) Fee charged for registration of all categories of overseas employment, to be valid for multiple employments: Not more than RM20.

### 2.3 No written contract provided

In reality, many fraudulent job agencies do not provide written contracts, since there is a

*The job recruitment agencies usually use elements of inducement or misrepresentation to attract applicants by promising to find jobs for them when they sign up and make payment.*



possibility dissatisfied job applicants will take action against them. So, the agencies merely prepare a contract with many escape clauses which does not really bind the parties and is not enforceable. Applicants normally will not resort to the courts because the process is expensive and therefore suffer in silence.

## 2.4 Misrepresentation

The job recruitment agencies usually use elements of inducement or misrepresentation to attract applicants by promising to find jobs for them when they sign up and make payment. This is a clear indication of misrepresentation and is an offence under **Section 28 (Offences) of the Private Employment Agencies Act 1981** which states that any person who provides any written information that tends to be false shall be guilty of fraud under this Act. It is also an offence under **Part II of the Consumer Protection Act 1999**, which was specifically enacted by the government to protect consumers.

## 2.5 Unlicensed agencies

In Malaysia many job recruitment agencies which conduct scams are not registered with the Ministry of Human Resources and also did not possess any licence for operating such a business. **Section 13 (Display of Licence) of the Private Employment Agencies Act 1981** requires all private employment agencies to display their licences in a conspicuous place in their premises. Such licensing is designed to prevent them from carrying out job placement scams on applicants keen to procure employment.

**Section 18 (1) (Advertisements) of the Private Employment Agencies Act 1981** states that no private employment agency may advertise in any mass media unless the advertisement contains the licence number and correct information relating to vacancies, qualifications and the terms and conditions of employment. Failure to do so is an offence under **Section 32 (3) of the Act**, under which a person convicted is liable to a fine not exceeding RM3,000 or not more than a year in jail or both.

## 3.0 RECOMMENDATIONS

- 3.1 The Ministry of Human Resources must seriously enforce the Private Employment Agencies Act 1981 under its purview to put an end to the operations of illegal job recruitment agencies which cause many innocent applicants to suffer and bear financial losses.
- 3.2 The Ministry of Human Resources must develop KPI's in this respect to eradicate both bogus job recruitment agencies and 'work from home' scams to protect the Malaysian public from this menace. It can be proactive in advising all those cheated to lodge reports with the ministry for action to be taken.
- 3.3 The Ministry of Domestic Trade, Cooperatives and Consumerism can be proactive in implementing Part II of the CPA 1999 to protect consumers from companies which are inserting false and misleading advertisements promising job placements.

## Report 17

# Cheap sales

No.	Types of complaints
1.	Misleading prices
2.	Membership discounts
3.	Misleading advertisements
4.	Poor quality of products sold

### 1.0 INTRODUCTION

The National Consumers Complaints Centre, (NCCC), received a total of 829 complaints in 2009. Lately complaints on cheap sales have risen especially after Malaysia entered into various free trade agreements. Cheap sales of various consumers' goods are the norm in many retail shops, complexes, warehouses and factories in the country. Consumers complain that traders are not really offering value bargains but are manipulating prices to appear cheaper than normal prices.

### 2.0 CONSUMER ISSUES

#### 2.1 Misleading prices

Consumers complain that during cheap sales, the prices of goods are not reduced as claimed. Some retailers even quote higher prices after discount. The new and old prices are not displayed prominently. **Regulation 2(1) of the Trade Descriptions (Cheap Sale Price) Regulations 1997 (TDR)**, states that "cheap sales price" is an indication, in any manner to be less than the price at which the goods of the same description were previously offered. According to **Regulation 8 (1) TDR**, traders must display both previous and current prices in a conspicuous manner proximate to the goods. **Regulation 15(4) of TDR** states that any person who contravenes the Regulations is guilty of an offence.

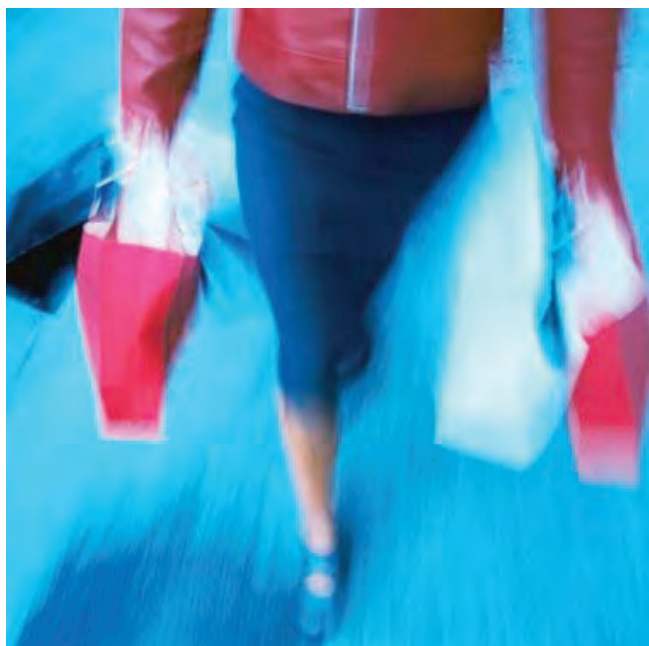
#### 2.2 Membership discounts

Traders are circumventing the cheap sale regulations by offering cheap sale goods via "Membership Schemes". This is to circumvent the mandatory requirement under **Regulation 5 of TDR** which limits the number of cheap sales to 5 in a calendar year. Further it requires that each cheap sale must be for a specific date and duration only. Thus membership schemes allow the traders to have cheap sale activity throughout the year without adhering to the regulations. Traders use the SMS facility to inform members about the cheap sales. There are also some retailers offering discounts with accumulative points system with purchases. All these tactics are to circumvent regulations and mislead consumers regarding cheap sales.

#### 2.2 Misleading advertisements

Consumers complain that prices indicated in advertisements and brochures by traders are lower than actual prices at their outlets. Thus consumers are misled into paying more. There are also complaints that some traders offer only a few items for cheap sale while the rest are sold at higher prices. Thus consumers who have taken the bait end up at the outlets and are forced to buy items at higher prices. **Regulation 7 of TDR**, clearly states that during the cheap sale promotion, at least 70 per cent of the products displayed in an outlet are to be offered at cheap sale prices. Further, **Section 13 of Consumer**





*Traders are circumventing the cheap sale regulations by offering cheap sale goods via “Membership Schemes”. This is to circumvent the mandatory requirement under **Regulation 5 of TDR** which limits the number of cheap sales to 5 in a calendar year.*

**Protection Act 1999**, clearly provides that no person should advertise for supply of goods at a specific price which that person is unable to supply.

### 2.3 Poor quality of products sold

Consumers complain that cheap sales are used by traders to clear old stock no longer in demand. The traders also clear defective goods during the cheap sales. Hence consumers end up buying poor quality products. Fake goods are also disposed off by traders during cheap sales. Only toys have safety standards at the moment. However there are many more unsafe goods in the market that do not have safety standards.

enforced. There must be proactive action from MDTCC.

- 3.2 The MDTCC must activate **Part III of the CPA 1999** on safety of goods and services by drawing up regulations. These will help protect consumers from numerous unsafe products available in the market.
- 3.3 The MDTCC must expedite the tabling and enactment of the **Anti Profiteering Act**, this year. This will prevent traders simply increasing prices of goods during cheap sales.
- 3.4 Membership programmes by traders must be stopped immediately.

## 3.0 RECOMMENDATIONS

- 3.1 The Ministry of Domestic Trade, Cooperatives and Consumer Affairs (MDTCC) must strictly enforce **Part II of the CPA 1999** to protect consumers from misleading advertisements. In addition the Cheap Sale Regulations must be strictly

## Report 18

# Maid agencies

No.	Types of complaints
1.	Excessive charges
2.	Failure to return deposit upon cancellation
3.	Untrained and runaway maids

### 1.0 INTRODUCTION

NCCC received 746 complaints in 2009 against maid agencies as opposed to 1,022 in 2008 which reflect the poor regulation of maid agencies in the country. Consumers are also not protected from being cheated by unscrupulous maid agencies through one sided contracts. There have been complaints that some maid agencies are not registered and even those registered have closed down after collecting money from potential employers. Many maid agencies frustrate consumers by providing untrained maids who eventually create more problems for their employers.

### 2.0 CONSUMER ISSUES

#### 2.1 Excessive charges

Employing a foreign maid for example from Indonesia is now beyond the ability of a household with average income. The current charge is between RM7,000.00 to RM8,000.00 per maid with minimum monthly salary of RM550.00 for work contract of two years. The practice of overcharging of fees, both for the first time and in relation to replacement of maids, has been the practice in the industry for quite some time. The government has not been successful in implementing an acceptable recruitment charge. Excessive profits are made by recruitment agents in the country of origin and local agents. This has

resulted in numerous groups seeking permits to bring in maids. The Persatuan Agensi Pembantu Rumah Asing (PAPA) is not of much help in solving this problem.

#### 2.2 Failure to return deposit upon cancellation

This is another problem highlighted by consumers. A no refund policy is used against consumers who want to return maids whose work is unsatisfactory. The Consumer Claims Tribunal has been able to help employers in a limited number of such cases. **Section 46 of the Consumer Protection Act 1999** on the other hand provides a right to refund or replacement to consumers when they exercise the right to reject the services of the maid provided.

#### 2.3 Untrained and runaway maids

The issue of untrained and runaway maids has been highlighted in NCCC's annual reports since 2006 and this problem continues to persist. Consumers are promised capable and trained maids based on their bio data but in the end get untrained maids. Furthermore consumers have to bear all losses when their maids run away. Maid agencies will replace the maid during an initial stipulated period but with additional payment for replacement.



*This is another problem highlighted by consumers. A no refund policy is used against consumers who want to return maids whose work is unsatisfactory. The Consumer Claims Tribunal has been able to help employers in a limited number of such cases.*

### 3.0 RECOMMENDATIONS

- 3.1 The Ministry of Human Resources (MHR) should review maid agencies' operations, set reasonable recruitment charges and regulate the lucrative maid supply market.
- 3.2 The Ministry of Domestic Trade, Cooperatives and Consumerism should work together with (MHR) to monitor the operations of maid supply agencies to protect consumers.
- 3.3 A uniform and fair contract between the parties must be introduced and implemented by the Government so that all agencies are held responsible for domestic maids, should anything go wrong on their part or on the part of the maids they bring in.

## Report 19

# Legal services

No.	Types of complaints
1.	Delay
2.	Excessive fee
3.	Negligence by lawyers

### 1.0 INTRODUCTION

The numbers of complaints for 2009 totalled 704 compared to 763 in 2008. This represents a significant drop in the number of complaints against the legal profession. Most of the complaints centred on lawyers taking unfair advantage of clients who are generally ignorant of the laws and unaware of their rights.

The problems associated with the legal profession have long been a bane to Malaysians who have had unfortunate encounters with some irresponsible lawyers. Negligence and incompetence on the part of these lawyers has led to many Malaysians being denied justice. The public at large demands greater accountability and responsibility from lawyers. The judiciary must also take a proactive step in ensuring lawyers minimise unwarranted problems. The following are common complaints that NCCC received legal services.

### 2.0 CONSUMER ISSUES

#### 2.1 Delays

Each year the same complaints have been highlighted against lawyers on the unnecessary delay, particularly in conveyance work. The lawyers demand exorbitant charges but do not deliver on time the work to be done by them with regard to agreements. This problem is rampant in real estate matters.

Under the **Legal Profession (Practice and Etiquette) Rules 1978**, in particular **Rule 31 (Advocate and solicitor to uphold the dignity of the profession)** and **Rule 12 (Advocate and solicitor cannot handle civil cases intended to delay proceedings)**; lawyers must not delay their client's matters and must carry out their duties with due diligence.

#### 2.3 Excessive fee

Lawyers in general have to abide by a fee structure and Malaysian lawyers are governed by the **Solicitor Remuneration Order 2006**. Lawyers must refer to **Rule 11 (Fees for litigation/contentious matters)** of the **Legal Profession (Practice and Etiquette) Rules 1978** to set their fees. Costs may vary, depending on the complexity of the case or skills required in handling it. In reality, most lawyers do not adhere to Legal Profession (Practice and Etiquette) Rules 1978 on fees.

#### 2.4 Negligence by lawyers

The most common problem that people face is wrong advice given by lawyers, resulting in their losing the case, and money as well. Negligence on the part of lawyers is often related to their own disregard for the law and to their fiduciary duty to clients.

**Rule 16 of Legal Profession (Practice and**





*The most common problem that people face is wrong advice given by lawyers, resulting in their losing the case, and money as well. Negligence on the part of lawyers is often related to their own disregard for the law and to their fiduciary duty to clients.*

**Etiquette) Rules 1978** requires lawyers to uphold the interests of the client, justice and the dignity of the legal profession. Similarly, **Rule 9** states that lawyers are to act and conduct cases fairly and honourably for their clients.

### 3.0 RECOMMENDATIONS

- 3.1 Punitive action, such as suspension from practice or even disbarring, must be imposed in order to gain the public's confidence in the Malaysian Bar as a whole.
- 3.2 Property purchase transactions must be dealt with efficiently in order to save time and cost. The Bar Council too must act swiftly, especially when money is involved.

- 3.3 Evaluations must be carried out every year to assess the performance of lawyers and test their competency. Since the majority of complaints are on the property transaction, importance must be given to any complaint where clients have lost money in relation to interest payments as a result of delay by lawyers. Such complaints must be investigated as soon as practicable.

## Report 20

# Water services

No.	Types of complaints
1.	Billing disputes
2.	Water supply disruption
3.	Poor customer service

### 1.0 INTRODUCTION

Water is essential to life and getting clean water at a reasonable price is a consumer's basic right. However consumers are getting murky water which they have to filter. Since water supply was privatized by the government consumers are faced with regular increases in water rates. Billing disputes, disruption in water supply and poor customer service formed the bulk of consumer complaints in 2009.

### 2.0 CONSUMER ISSUES

#### 2.1 Billing disputes

This has been a major issue in 2009. Numerous complaints were received on billing disputes. They concern mainly consumer dissatisfaction with the high charges for water. This trend can be seen clearly from common complaints such as wrong billing, wrong meter reading, water leakage unknown to consumers, high reconnection fees and meter malfunction.

Consumers complain that water operators should be able to identify increasing charges on consumers' water bills and advise the users on the possibility of leakage so that action can be taken at an early stage. Often consumers only find out about water leakage later, when high bills are reported to the service operator. These results in delays in resolving the problem resulting in



*Water supply disruptions are another major problem for consumers. Any disruption will affect the daily routine of a family. Water service providers have to come up with proactive measures, such as distributing flyers to alert people in areas where supply will be disrupted, besides the usual announcements over the mass media.*

consumers paying more to rectify defects in the piping.

### 2.3 Water supply disruption

Water supply disruptions are another major problem for consumers. Any disruption will affect the daily routine of a family. Water service providers have to come up with proactive measures, such as distributing flyers to alert people in areas where supply will be disrupted, besides the usual announcements over the mass media. The frequent bursting of water pipes, the breakdown in water pumps and damage to water pipes caused by other repair works compounds the water disruption problem. Consumers who stay in high rise buildings such as flats and apartments face even greater difficulties when disruption occurs because they have to walk up and down to get water from alternative sources.

### 2.4 Poor Customer Service

Professionalism in customer service is also expected in the water industry since it affects the basic need of every consumer. Consumers complain that service providers do not settle their problems within a reasonable time frame. Customer service is expected to resolve common problems of consumers as soon as possible in a just and fair manner.

## 3.0 RECOMMENDATIONS

- 3.1 Water service operators should provide advance notice of water supply disruption and provide alternative water supply to affected customers.
- 3.2 The National Water Services Commission and water service providers should educate consumers with regard to water leakage and high bills.
- 3.3 The National Water Services Commission has to be effective in monitoring and evaluating all water service providers because many of the problems raised in the past continue to recur.
- 3.4 A Water Dispute Resolution body should be set up to specifically handle and hear water supply related issues so as to speedily resolve complaints brought by consumers.

## Report 21

# Pawn broking

No.	Types of complaints
1.	High interest rate
2.	Low compensation on items lost
3.	Unfair auction procedures
4.	Pawned items skimmed

## 1.0 INTRODUCTION

Pawnshops play an integral role as a source of credit in Malaysia and are subject to legislative controls. However, there are certain areas that require special attention and also implementation. Although governed by the Pawnbrokers Act 1972, problems still persist on the conduct and services of pawnbrokers.

The lower income groups are the target and affected parties due to the unscrupulous dealings of pawnbrokers. The lower income group is a higher credit risk and as such is unable to get loans from financial institutions. People in this group therefore have to resort to pawnbrokers for their credit needs. The most common complaint is that gold chains or bangles pawned have been unfairly auctioned without prior notice and also were not weighed or measured, and therefore the weight not recorded in the pawn receipt. Other complaints were that the items pawned were found to be shorter or lighter upon redemption, which basically meant that the items had been skimmed.

## 2.0 CONSUMER ISSUES

### 2.1 High interest rate

The Pawnbrokers Act 1972 allows an interest rate of 2% a month or 24% a year, which is very high considering the fact that the interest rate under the Moneylenders Act 1951 is 12% a year for

secured loans. Many consumers have complained that the rate is very high for the lower income group and that until now there has been no change to the Pawnbrokers Act to at least bring the interest rate down to 1% a month. The delay in amending the Act has burdened consumers who have to pay more for the high interest which only benefits the pawnbrokers.

### 2.2 Low compensation on items lost

A common complaint is the amount of compensation paid by pawnbrokers which is below the value of the items pawned or their market price when their items are lost due to theft, robbery or fire despite this being the fault of the pawnbrokers. **Section 22(3) of the Act** allows the pawnbrokers to pay compensation for the pawned item together with an additional sum of 25% of the pawned sum. Although this is legal, the amount is grossly inadequate since the compensation does not take into consideration the original purchase price or the current market value of the items lost.

Pawnbrokers must be collectively responsible for losses incurred for whatever reason as long as the goods are under their possession. If the items are not delivered to the owner or the items have been rendered of lesser value due to the negligence on the part of the pawnbrokers, the pawnbroker should compensate the owner with a reasonable sum calculated at the market price.



*A common complaint is the amount of compensation paid by pawnbrokers which is below the value of the items pawned or their market price when their items are lost due to theft, robbery or fire despite this being the fault of the pawnbrokers.*



### 2.3 Unfair auction procedures

A common complaint forwarded to NCCC is regarding unfair auction procedures. There are complaints that written notices were not given to the owners of items due for auction. The pawnbrokers claim that they have sent the notice but there was no one at the address to collect the registered letter. **Section 25 (1) of the Act** provides that in the event an auction of the pawned items is to be held, written notice must be given to notify the owners of the pawned items within a week before the auction. **Section 23 (1) (a)&(b) of the Act** gives broad powers to pawnbrokers to buy over the items during an auction if the owners are not present, as provided under the **Pawnbrokers Regulations 1972**.

### 2.4 Pawn items skimmed

NCCC also received complaints that the items pawned have been skimmed. This means that gold items when pawned were not weighed nor measured or recorded in the pawn receipt. Eventually, the owners discover that their goods are either shorter or lighter. However such claims are difficult to prove, since nothing is in writing.

## 3.0 RECOMMENDATIONS

- 3.1 The Ministry of Housing and Local Government should amend the Pawnbrokers Act to lower the interest rate charged on pawned items so that it is fair to people in the lower income group.
- 3.2 The Government must play a bigger role to protect consumers against abusive lending and collection practices and ensure borrowers are given accurate and transparent information on costs of pawn broking interest rates. They also must be given receipts with full information of the pawned items. Gold items must be weighed and measured and this information recorded in the receipt.
- 3.3 The Government should also consider the application of Syariah principles to the conventional pawn broking system.

## Report 22

# Food

### No. Types of complaints

1. Expired products
2. Food contamination
3. Unhygienic premises
4. Price

## 1.0 INTRODUCTION

The total complaints received for food and food safety by NCCC was 474 for the year of 2009 compared to 2008 was 727. This represents a significant increase in the number complaints received by NCCC compared to 2008. The majority of the complaints received by NCCC were regarding expired food products and also prices of food products.

## 2.0 CONSUMER ISSUES

### 2.1 Expired products

The number of complaints on expired food products sold to the public in 2009 increased compared to the year before. This reflects a food safety problem. Retailers seem to treat this lightly in terms of managing their food stock and expiry dates. Complaints on expired food products being sold abound especially during special promotions, festive seasons and during bundle sale events. **Section 4 Part V of the Food Regulations** states that all food product labels must indicate the manufacturing and expiry dates. It is illegal to sell products without the expiry date or to offer for sale products with the expired "use before" date.

### 2.2 Food contamination

Problems on food contamination are persistent day by day. The most unwanted biological

materials such as lizards and cockroaches seem to be consistently found in packaged food sold in retail outlets. Apart from biological materials, foreign materials such as pieces of metal or glass are also found in food. Although complaints on these matters were numerous, manufacturers have not been very cooperative in resolving the problem. They always have excuses or take a defensive stand by issuing legal notices to complainants in order to intimidate them.

Manufacturers and producers alike must take heed of **Section 13A of the Food Act 1983**, which makes it an offence to prepare and sell food that is unfit for human consumption. The law also provides that in the event complaints are made and proven true, the manufacturer or producer concerned can be fined RM30, 000 or jailed for a term of 5 years.

### 2.3 Unhygienic premises

Many restaurants and food service outlets are not responsible to their customers. They operate unclean premises and practise poor hygiene. Unhygienic restaurants and food services are another common complaint forwarded to NCCC. Complaints centre on the lack of proper and adequate facilities, such as poor drainage, limited or lack of garbage disposable containers and irregular collection of garbage by the waste collection companies. **Section 11 of the Food Act** states that a food premise may be ordered to be put in "a hygienic and sanitary condition".



*Manufacturers and producers alike must take heed of **Section 13A of the Food Act 1983**, which makes it an offence to prepare and sell food that is unfit for human consumption.*

Complainants are aware that food handlers must wear caps and aprons and also handle food with gloves, etc. The problem is very much evident in restaurants and food services outlets that are less frequented by Health Ministry or the local council health department enforcement officers in enforcing the law.

## 2.4 Price

The other major complaint received by NCCC is on the high price of food products. The retailers blame the hike in oil prices which directly affected prices of all products. However prices did not come down when fuel prices were reduced. There is clearly an element of profiteering by traders. There is also misrepresentation on the retailer's part where they advertise a lower price but when consumers go personally to buy the goods the price charged is higher. There is no clear explanation from retail traders for increase in the price of products. Some retailers also did not have

the price tag for products that they were selling at a higher price.

## 3.0 RECOMMENDATIONS

- 3.1 The Food Safety Quality Division and the Ministry of Health must compel food manufacturers and distributors to operate an effective complaints management system and report injury or hospitalisation due to consumption of food sold by manufacturers, distributors and retailers to the Food Safety Division. It is crucial to establish a database on the safety of food sold in Malaysia.
- 3.2 The Ministry of Domestic Trade, Cooperatives and Consumerism must work to curb the retail traders from charging high prices for food products. They must take stringent action against retail traders practising this unethical conduct.
- 3.3 The Ministry of Health should establish a comprehensive Complaints Bureau specifically to handle complaints concerning food and health. Public information programmes must be carried out to explain to consumers the working and mechanism of the bureau and its procedures.
- 3.4 The Ministry of Health should enforce stricter measures for compliance with Good Manufacturing Practice (GMP) and the Hazard Analysis of Critical Control Points (HACCP) standards on all sectors of the food industry and bring the GMP and HACCP under the Food Act 1983 and the Food Regulations 1985 to better protect consumers.
- 3.5 Companies have the moral obligation to ensure their brands or products are compliant with the laws of the nation. Education in these areas must play a bigger role to instil cleanliness and awareness among food handlers and restaurant and eatery operators.



## Report 23

# Healthcare services

No.	Types of complaints
1.	Billing disputes
2.	Unprofessional conduct
3.	Unethical marketing practices

### 1.0 INTRODUCTION

NCCC received 265 complaints about healthcare services, ranging from poor quality services to exorbitant fees. The healthcare sector by definition covers all healthcare providers such as private hospitals, government hospitals and clinics, maternity clinics and private health clinics. Currently private hospitals are operated as profit making commercial organizations and their main concern is to provide quality healthcare to those who can afford it at a higher cost compared to other healthcare providers. Different private hospitals charge different rates for their services.

### 2.0 CONSUMER ISSUES

#### 2.1 Billing disputes

The majority of complaints are regarding billing disputes as more patients seek treatment at private hospitals. Many are not aware of the total cost of treatment likely to be involved as there are many components to the final bill such as laboratory charges, operating theatre equipment and supplies among others. The final bill will sometimes come as a shock to some patients as itemised billing is not possible at the beginning of treatment. Such charges may appear exorbitant to the patients concerned. Consumers' have questioned the rationale for such high charges imposed by private hospitals.



*NCCC received complaints of doctors and hospital staff failing to provide medical attention required by patients. Patients were made to wait long hours, and no attention was paid unless the patient took the initiative to approach the hospital staff.*



## 2.2 Unprofessional conduct

Complaints in this category have been about the lack of communication, rudeness, incomplete and delayed medical reports and also unresponsive doctors and health workers. NCCC received complaints of doctors and hospital staff failing to provide medical attention required by patients. Patients were made to wait long hours, and no attention was paid unless the patient took the initiative to approach the hospital staff. This happened at both public and private hospitals.

There were also complaints about doctors not providing a complete medical report for the patient, thereby exposing them to significant health and safety risks when subsequent treatment is sought at a different medical centre. These delayed reports also hinder patients from making timely insurance and SOCSO claims. Rude medical staff includes allied health workers and support staff, who have been accused of shouting at and even scolding patients.

## 2.3 Unethical marketing practices

Complaints have also been received on “viral marketing”, where private healthcare providers are able to obtain the personal information of consumers and send them promotional offers. Complaints were also received about unethical marketing and promotional tactics on the part of private healthcare providers. Medical check-up services are heavily promoted to consumers in

the form of packages, normally for a few months to a few years, and are relatively promoted as inexpensive but end up being expensive to the consumers.

## 3.0 RECOMMENDATIONS

- 3.1 The Ministry of Health should review the Fees Schedule under the Private Healthcare Facilities and Services Act 1998 to take into account the high charges imposed by private healthcare providers.
- 3.2 The Ministry of Health should take stringent action against healthcare services for unethical marketing of health packages. Guidelines should be in place to control and monitor healthcare marketing practices from manipulating consumers for their own benefit.
- 3.3 The Ministry of Health should require all healthcare facilities to give greater focus to training in order to improve interpersonal and communication skills of their healthcare personnel.



## ANNEXURE 1

### PUSAT KHIDMAT ADUAN PENGGUNA NASIONAL NATIONAL CONSUMER COMPLAINTS CENTRE

833117 P

*Sila catatkan rujukan apabila berhubung*

**ADIL, MUDAH & EFISYEN / FAIR, EASY & EFISYEN**

No. Ruj: NCCC / \_\_\_\_\_ / \_\_\_\_\_

#### Butir-butir Pengadu

Nama \_\_\_\_\_

No. Kad Pengenalan \_\_\_\_\_ No. Pasport \_\_\_\_\_

Telefon \_\_\_\_\_ Faks \_\_\_\_\_ E-mail \_\_\_\_\_

Alamat \_\_\_\_\_

Bandar \_\_\_\_\_ Pos Kod \_\_\_\_\_ Negeri \_\_\_\_\_

#### Aduan Terhadap

Nama Syarikat/Agensi \_\_\_\_\_

Alamat Syarikat/Agensi \_\_\_\_\_

Bandar \_\_\_\_\_ Pos Kod \_\_\_\_\_ Negeri \_\_\_\_\_

Telefon \_\_\_\_\_ Faks \_\_\_\_\_ E-mail \_\_\_\_\_

Pegawai Perhubungan \_\_\_\_\_ No. Tel. Bimbit \_\_\_\_\_

Industri \_\_\_\_\_ Kod kategori  Kod Sub-kategori

Keterangan ADUAN :

Standard (jika ada): \_\_\_\_\_

*Sila gunakan muka belakang atau lampiran untuk rungan tambahan*

#### UNTUK KEGUNAAN PEJABAT

Tindakan \_\_\_\_\_

Status Aduan \_\_\_\_\_

Catatan \_\_\_\_\_

Pegawai Aduan \_\_\_\_\_ Tarikh Aduan \_\_\_\_\_

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