



RIGHTS OF CONSUMERS UNDER CONSUMER PROTECTION ACT 1999

Consumer Protection Act 1999 (Act 599) (“CPA”) came into force on the 15th of November 1999 to provide legislative provisions for consumer protection. Consumer protection is a vast field, it includes not only an examination of the consumer’s civil rights in respect of the quality of goods and services, oppressive bargains and defective products, but it also promotes and protect consumer interests. However, not many people are aware of their rights as a consumer. In view of this, below are the salient rights of consumers pursuant to the CPA.

SALIENT RIGHTS OF CONSUMERS PURSUANT TO THE CPA

◆ MISLEADING CONDUCT & FALSE OR MISLEADING REPRESENTATION

Section 10 of the CPA states that it is unlawful to make a false or misleading representation of the goods or services that a person or business organisation sells. This includes representation on standard, quality, grade, quantity and composition of the product or service. The products cannot be advertised in a manner that misleads the consumers. Consumers have the rights to receive a fair judgment of just claims, including compensation for the purchase of goods or services which were sold due to a misleading representation or description.

◆ GIFTS, PRIZES, FREE OFFERS, ETC.

Consumers are entitled to any free gifts that are advertised. Section 14 of the CPA states that no person shall offer any gift, prize or other free item with the intention of not providing it as offered. If the consumers do not receive the advertised free gift, they have the rights to complain to Ministry of Domestic Trade and Consumer Affairs Malaysia (“MDTCA”) and request for the free gift.

◆ GOODS AND SERVICES MUST COMPLY WITH SAFETY STANDARDS SET BY MINISTRY

The consumers have the right to be protected against products, production processes and services that are hazardous to health or life. MDTCA may declare any goods that have caused or are likely to cause injury to the consumers or is otherwise unsafe, as prohibited goods. Section 19 of the CPA states that the MDTCA sets the safety standards based on recommendations and consultations with relevant and competent agencies. MDTCA may prescribe different safety standards for different goods and services. If no safety standard has been prescribed by the MDTCA under CPA, the manufactures or suppliers shall adopt a reasonable standard of safety and shall ensure that all products and services that they produce or supply meet the minimum safety requirements.

◆ FUTURE SERVICES CONTRACT

Future Services Contract means a contract for consumer services that will be provided on a continuing basis and as prescribed by the MDTCA from time to time. For example, when the consumer has paid a lump sum upfront for a whole year’s membership in order to get a discount but when the consumer is unable to utilise the package completely and tries to get a refund, the consumer is informed that there are no refunds and no cancellations allowed. This is known as a “future services” contract – i.e. where a consumer pays for services to be redeemed or used at a later date.

What many people do not realise is that “no refund and no cancellation” policy for future services contract violates the CPA.

Section 17 of CPA specifically provides that a consumer who cancels a future services contract can only be charged:

- (a) five per centum (5%) of the full contact price;
- (b) the cost of any goods the consumer used or is keeping; or
- (c) the portion of the full contact price representing service received by the consumer.

If the consumer has paid the supplier more than the supplier is entitled to charge as stated above in paragraphs (a), (b) or (c), the supplier must refund the extra payment within fourteen (14) days of cancellation. A cancellation of future services contract may be communicated by words or conduct which indicate the intention of the consumer to cancel the contract.

The Minister of Domestic Trade, Cooperatives and Consumerism has issued the Consumer Protection (Future Services Contract) (Amendment) Order 2014 to specifically identify the categories of services that would fall under the definition of “future services”, which are:

- (a) body treatment and beauty;
- (b) fitness and health;
- (c) recreational, lodging and entertainment;
- (d) educational;
- (e) personal skill development;
- (f) maintenance; and
- (g) other services.

◆ IMPLIED GUARANTEE AS TO ACCEPTABLE QUALITY

The goods that are supplied to the consumers shall have an implied guarantee that the goods are of acceptable quality as stated in Section 32 of the CPA. The goods shall be deemed to be of acceptable quality if the goods are fit for all the purposes, acceptable in appearance and finish, free from minor defects, safe and durable. However, consumers must take note that if any defects in the goods have been specifically drawn to the consumer’s attention before the consumers agree to the supply, the goods shall not be deemed to have failed to comply with the implied guarantee as to acceptable quality by reason only of those defects.

CONCLUSION

The enforcement of CPA not only promote the protection of the basic rights of individuals as consumers. Further, it promotes industry responsiveness to consumer requirements, increases the confidence of consumers in service quality, the extensive availability of services and the affordability of services.

Therefore, it is important for the consumers to be equipped with an elevated level of consumerism knowledge and skills and be well-informed of market developments, necessary to empower them to be better to able to act, make effective decisions and to ensure that the consumers become more empowered, savvy and resilient.

All information in this Newsletter is correct as at 31 May 2019 unless otherwise stated.

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