CONSUMER PROTECTION ON ONLINE TRANSACTIONS IN KURDISTAN

LESSONS FROM MALAYSIAN LAW

By

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Theses Submitted to the Ghazali Shafie Graduate School of Government, 
Universiti Utara Malaysia
In Fulfilment of the Requirement for Master of Human Resource Law
May 2014
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Kedah Darul Aman
Malaysia
Abstrak


Kata kunci: Kurdistan, Internet, E-Dagang dan Isu Undang-Undang.
Abstract

Recently, the increase in the usage of e-commerce has been one of the most significant developments of business sector. It has transformed many marketplaces to start new opportunities have never been imagined before. Kurdistan is considered as one of the very few regions in the world that are still so far from the real use of inevitable services of e-commerce. Primarily, Kurdistan suffers various features that run as barriers to an effective use of e-commerce, such as inadequate laws to protect consumers electronically, lack of awareness and understanding the benefits of electronic commerce, lack of information and communication technologies (ICT) knowledge and skills, unstable physical network infrastructure, security and other problems related to costs for the adoption of a new technology. This study aims to identify potential issues and problems facing e-commerce in Kurdistan. For this purpose, the study has conducted a comparison between both Malaysian and Kurdish contexts in terms of consumer protection law on online transactions. This study also indicates the intention of Kurdish government to apply Malaysian context into its national laws in terms of e-transactions. As a part of data collection, this study has conducted two versions of formal and informal interviews involved three sets of questions asked each group of selected panelists from governmental and non-governmental organizations in Kurdistan. The given discussions by this study focused on the technological and law issues that could drive e-commerce in this region. Suggestions were given for better improvement of Kurdish internet laws to provide safe electronic environment and to bring Kurdistan amongst other developing countries to become an active member in the digital economy.

Keywords: Kurdistan, Internet, E-Commerce and Legal Issues.
Acknowledgement

First and foremost, I would like to dedicate this humble effort to both my Dad and soul of my Mom. To my dear wife Jwan Mohammed Ali whom supported me in every step of my life to complete my studies. Both of my daughters Shano and Lava Kawa Akram they are truly blessing sent from God. They have brought so much joy into my life and they have been my motives, for this I will always be grateful to God.

In particular, I would like to express my warm prides and appreciations to my supervisor Assoc. Prof. Dr. Nuarrual Hilal Md. Dahlan whom without his valuable guidance, this study would not be completed.

Secondly, I wish to extend my gratitude to my only brother Mustafa Akram Mohammed Amin whom helped me in collecting necessary data used in this study.

Last but not least, I am further indebted to all my supervisors at Kurdistan Regional Government (KRG), my lecturers in the school of law, my friends at Universiti Utara Malaysia for their tremendous and moral support they gave me at all times that enabled me to complete my study.

I ask God for them all the best and love.
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<th>Description</th>
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<tbody>
<tr>
<td>ACMA</td>
<td>Abuse of Communication Means Act 2008 (Act 6) of Kurdistan</td>
</tr>
<tr>
<td>ADMA</td>
<td>Asia Digital Marketing Association</td>
</tr>
<tr>
<td>B2B</td>
<td>Business to Business</td>
</tr>
<tr>
<td>B2C</td>
<td>Business to Consumer</td>
</tr>
<tr>
<td>B2G</td>
<td>Business to Government</td>
</tr>
<tr>
<td>C.P.A</td>
<td>Coalition Provisional Authority of Iraq</td>
</tr>
<tr>
<td>C2C</td>
<td>Consumer to Consumer</td>
</tr>
<tr>
<td>CA</td>
<td>Contracts Act 1950 (Act 136) of Malaysia</td>
</tr>
<tr>
<td>CMA</td>
<td>Communications and Multimedia Act 1998 (Act 588) of Malaysia</td>
</tr>
<tr>
<td>CPA</td>
<td>Consumer Protection Act 1999 (Act 599) of Malaysia</td>
</tr>
<tr>
<td>DSAPSA</td>
<td>Direct and Anti-Pyramid Scheme Act 1993 (Act 500) of Malaysia</td>
</tr>
<tr>
<td>EA</td>
<td>Electronic Acceptance</td>
</tr>
<tr>
<td>ECA</td>
<td>Electronic Commerce Act 2006 (Act 658) of Malaysia</td>
</tr>
<tr>
<td>ECB</td>
<td>Electronic Commerce Bill</td>
</tr>
<tr>
<td>ECG</td>
<td>Electronic Commerce Group</td>
</tr>
<tr>
<td>EDI</td>
<td>Electronic Data Interchange</td>
</tr>
<tr>
<td>EG</td>
<td>Electronic Government</td>
</tr>
<tr>
<td>EO</td>
<td>Electronic Offer</td>
</tr>
<tr>
<td>G2G</td>
<td>Government to Government</td>
</tr>
<tr>
<td>GIN</td>
<td>Global Information Network</td>
</tr>
<tr>
<td>IAA</td>
<td>Indecent Advertisement Act 1953 (Act 259) of Malaysia</td>
</tr>
<tr>
<td>ICC</td>
<td>Iraqi Civil Code 1951 (Act 40)</td>
</tr>
<tr>
<td>ICPA</td>
<td>Iraqi Consumer Protection Act 2010 (Act 1)</td>
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<td>ICT</td>
<td>Information and Communication Technologies</td>
</tr>
<tr>
<td>ID</td>
<td>Iraqi Dinar</td>
</tr>
<tr>
<td>IICM</td>
<td>Iraqi Institute of Communications and Media</td>
</tr>
<tr>
<td>IPC</td>
<td>Iraqi Penal Code 1969 (Act 111)</td>
</tr>
<tr>
<td>ISMN</td>
<td>Iraqi Social Multimedia Network</td>
</tr>
<tr>
<td>IT</td>
<td>Information Technology</td>
</tr>
<tr>
<td>KRG</td>
<td>Kurdistan Regional Government</td>
</tr>
<tr>
<td>M-C</td>
<td>Mobile Commerce</td>
</tr>
<tr>
<td>MIMOS</td>
<td>Malaysian Institute of Microelectronic System</td>
</tr>
<tr>
<td>MSC</td>
<td>Multimedia Super Corridor</td>
</tr>
<tr>
<td>PC</td>
<td>Personal Computer</td>
</tr>
<tr>
<td>RM</td>
<td>Ringgit Malaysia</td>
</tr>
<tr>
<td>TDA</td>
<td>Trade Description Act 1972 (Act 87) of Malaysia</td>
</tr>
<tr>
<td>UNCITRAL</td>
<td>United Nations Commission on International Trade Law</td>
</tr>
<tr>
<td>UNMLEC</td>
<td>United Nations Model Law on Electronic Commerce</td>
</tr>
<tr>
<td>US</td>
<td>United States</td>
</tr>
<tr>
<td>W.W.W</td>
<td>World Wide Web</td>
</tr>
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## List of Statutes

### Malaysian Statutes

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<th>Year</th>
<th>No</th>
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<td>Consumer Protection Act</td>
<td>1999</td>
<td>(Act 599)</td>
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<tr>
<td>Trade Descriptions Act</td>
<td>1972</td>
<td>(Act 87)</td>
</tr>
<tr>
<td>Communications and Multimedia Act</td>
<td>1998</td>
<td>(Act 588)</td>
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<td>Electronic Commerce Act</td>
<td>2006</td>
<td>(Act 658)</td>
</tr>
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<td>Contracts Act</td>
<td>1950</td>
<td>(Act 136)</td>
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<td>Direct Sales &amp; Anti-pyramid scheme Act</td>
<td>1993</td>
<td>(Act 500)</td>
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<td>Penal Code</td>
<td>1936</td>
<td>(Act 574)</td>
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<td>Indecent Advertisements Act</td>
<td>1953</td>
<td>(Act 259)</td>
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### Kurdish Statutes

<table>
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<tr>
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<th>No</th>
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<tr>
<td>Iraqi Consumer Protection Act</td>
<td>2010</td>
<td>(Act 1)</td>
</tr>
<tr>
<td>Iraqi Copyright Protection Act</td>
<td>1971</td>
<td>(Act 3)</td>
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<tr>
<td>Iraqi Penal Code</td>
<td>1969</td>
<td>(Act 111)</td>
</tr>
<tr>
<td>Right of Information Act</td>
<td>2013</td>
<td>(Act 11)</td>
</tr>
<tr>
<td>Abuse of Communication Means Act</td>
<td>2008</td>
<td>(Act 6)</td>
</tr>
<tr>
<td>Iraqi Consumer Protection Act</td>
<td>2010</td>
<td>(Act 1)</td>
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<tr>
<td>Iraqi Copyright Protection Act</td>
<td>1971</td>
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<td>Iraqi Penal Code</td>
<td>1969</td>
<td>(Act 111)</td>
</tr>
</tbody>
</table>
1.1 Introduction

No job is so important and no matter is so urgent that we cannot perform our transactions safely. Once, his Excellency Mahathir Mohammed of Malaysia declared that "It can be no accident that there is today, no wealthy developed country that is information-poor, and no information rich country that is poor and underdeveloped" (Sanati, 2005). Recently, the mankind witnessed a giant improvement of internet technology and the world became a small universal city (Shareef, et al., 2010). Internet nowadays is considered as the best method of conducting businesses and transactions for both traders and consumers around the world. It is shortening times and efforts by creating a great contemporaneous relationship with human at home, office and workplace (Mansori, 2012).

People from all around the world can access easily to the internet and satisfy their needs of information, products, goods and services so fast by pressing only one mouse click of their personal computers or by using their smart phones. In spite of all these advantageous provided by internet, it is also become a tool of abusing consumers if it is not exercised properly. It has been around more than one decade since the internet arrived on the scene to attract businesses and consumers with the promises of new markets and new opportunities. However, in the early stages when Electronic Data Interchange (EDI) and not electronic commerce were the catch phrases, many questions were asked about the legitimacy of electronic contracting in the business and legal world. Whether, electronic contracts that they called
The contents of the thesis is for internal user only
REFERENCES


http://data.worldbank.org/about/country-classifications/country-and-lending-groups


Appendices

Appendix A

For the requirements of the data collection, first letter issued by Universiti Utara Malaysia and directed to Council of Ministers at Kurdistan Regional Government (KRG).

Kurdish Regional Government
Iraq
Council of Ministers

Sir / Madam

DATA COLLECTION FOR RESEARCH PAPER

This is to certify that Kawar Akram Mohammad Amin (Matric Number: 814038) is a full-time Master student at Universiti Utara Malaysia, Sintok, Kedah.

He needs to collect data for his research paper in order to fulfill the requirements of his programme.

We duly hope that your organization will be able to assist him in getting the necessary information for his research.

Thank you.

"SCHOLARSHIP VIRTUE SERVICE"

Yours faithfully,

[Signature]

DR. MAZLAN ISMAIL
Deputy, Deﬁn
Ghazali Shafie Graduate School of Government
UUM College of Law, Government and International Studies
Universiti Utara Malaysia, 06010 UUM Sintok, Kedah
Appendix B

Second letter addressed to Ministry of Transportation and Communication in Kurdistan.
Appendix C

Three versions of interview have been adopted in this study, such as follows:

A formal interview involved a number of panelists from three governmental organizations in Kurdistan identified by Council of Ministers, Ministry of Transportation and Communication, and Salah Uddin University in Erbil province.

The following questions have been asked in Kurdish language:

1- Aya em tegera u babetane cin ke roo be rooi mamelati eliktroni ya xod yasai internet debnewa le harimi Kurdistan? (What are the challenges and issues that will be faced in e-transactions or Internet law in Kurdistan?).

2- Aya internet le harimi Kurdistan le ci bwarik bekar dit? (What is the scope of using Internet in Iraqi Kurdistan Region relating to commerce transactions?).

3- Aya hic hewl drawa le layan hkumeti herimi Kurdistan bo derkirdini yasai parastini bekerhiner le ser online? (Are there any initial attempts taken by Kurdistan Regional Government (KRG) for establishing new laws and regulations related to consumer protection via online?).

4- Aya dekrit yasai Malizi derbarai parastini bekarhiner leser online le naw sistemi yasaii herimi Kurdistan dabindrit? (Is there any possibility of applying Malaysian context into the local legal system of Kurdistan Region in terms of consumer protection on online transactions?).

The following list shows the names, positions of the selected respondents, place of work and the date of formal interview:
In addition, an informal interview conducted in this study involved a group of panelists identified by Korek Telecom Company for communication services in Erbil province. A set of five questions were asked in Kurdish language as follows:

1- Aya chand bawer u mitmanet be xizmat guzari internet haya le harimi Kurdistan? (How much are you confidence with the internet services in Kurdistan?).

2- Aya krin dekay leser online? (Do you usually purchase online?).

3- Hic tusi feli bazirgani buit le kati krini electroni? (Have you ever been faced trade fraud while conducting e-transactions?).

4- Aya kompanya feli bazirgani kirdwa? (Does the company commit trade fraud?).
5- Am kise yasaiana chin ke roo be rooi kompanya debin? (What are the legal claims faced by the company?).

The following list shows the name, position of the selected respondents, place of work and the date of informal interview:

<table>
<thead>
<tr>
<th>No</th>
<th>Name</th>
<th>Position</th>
<th>Place of work</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Akam Yaseen</td>
<td>Manager</td>
<td>Korek telecom company</td>
<td>10.Jan.2014</td>
</tr>
</tbody>
</table>
Finally, another informal interview applied in this study involved a random population of 10 consumers faced serious trade fraud in Kurdistan. A set of three questions were asked each consumer as follows:

1- Aya chand bawer u mitmanet be xizmat guzari internet haya le harimi Kurdistan? (How much are you confidence with the internet services in Kurdistan?).

2- Aya krin dekay leser online? (Do you usually purchase online?).

3- Hic tusi feli bazirgani buit le kati krini electroni? (Have you ever been faced trade fraud while conducting e-transactions?).

The list below shows names, positions, workplaces and date of the interview:
<table>
<thead>
<tr>
<th>No</th>
<th>Name</th>
<th>Position</th>
<th>Place of work</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Mohammed Ismail Abdullah</td>
<td>Trainee lawyer</td>
<td>Sulaimaniah province</td>
<td>15.May.2014</td>
</tr>
<tr>
<td>2</td>
<td>Osman Rahim Ibrahim</td>
<td>Journalist</td>
<td>Xabat newspaper- Xanaqeen province</td>
<td>15.May.2014</td>
</tr>
<tr>
<td>3</td>
<td>Ahmad Mahmud Bakir</td>
<td>Engineer</td>
<td>Galala company- Erbil province</td>
<td>15.May.2014</td>
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<td>7</td>
<td>Karwan Tania Dilshir</td>
<td>Senior teacher</td>
<td>Erbil province</td>
<td>17.May.2014</td>
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<td>8</td>
<td>Aras Ali Chawshin</td>
<td>Manager</td>
<td>Razaw super market- Erbil province</td>
<td>17.May.2014</td>
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<td>10</td>
<td>Dilfraz Rasool</td>
<td>Accountant</td>
<td>Biyaban Company- Erbil province</td>
<td>17.May.2014</td>
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