

**UNIVERSITY  
OF MALAYA**



# **Tokushima International Consumer's Forum 2023**

## **Consumer Empowerment in the Digital Age**

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# ISSUE 1: COUNTERFEIT PRODUCTS ON E-COMMERCE



The trade of fake merchandise accounts for **3.3%** of global trade.

[Organization for Economic Cooperation and Development (OECD)]



In Malaysia, a total of 405 cases of counterfeit products have been confiscated with a seizure value of **RM6,763,430.93** in the year **2022**.

[The Ministry of Domestic Trade and Cost of Living (KPDN)]

## IMPACT



### CONSUMERS

- Financial losses
- Health and safety risks



### BUSINESS

- Brand reputation
- Loss of revenue



### ENVIRONMENT

- SDG 12: Responsible Consumption and Production



# Laws in Malaysia



## TRADEMARKS ACT 2019

- Counterfeiting a trademark (s 99)
- Selling of goods with falsely applied trademark (s 102)

### **A & M BEAUTY WELLNESS SDN BHD v SHOPEE MOBILE MALAYSIA SDN BHD [2021] MLJU 65**

- Absolves Shopee from liability for the sale of counterfeit products by third-party sellers on their platforms.
- The Court held that from a practical perspective, it is “impossible for [Shopee] to comply with an order which requires it to prevent a listing from being published before it is uploaded”.



## CONSUMER PROTECTION ACT 1999

- Prohibition on false trade descriptions that is likely to mislead consumers (s 8)
- Prohibition on supply of goods with False Trade Descriptions (s 9)



# Combating Counterfeit Products



## REGULATORS

- The **creation of a dedicated regulatory body** that focuses exclusively on e-commerce transactions, particularly on counterfeit products.
- **Update and revise the existing legal framework** in Malaysia - particularly on prohibiting businesses and e-commerce platforms from selling counterfeit products.



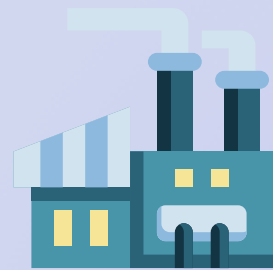
## CONSUMERS

- **Consumers need to be informed about their rights against counterfeit products**, as not everyone is aware of their rights as a consumer, even among the educated population
- **Educate consumers about the potential legal repercussions** associated with purchasing counterfeit products, which may include health risks and aiding illegal activities.





# Combating Counterfeit Products



## E-COMMERCE PLATFORMS

- **Transparent reporting system** for consumers & sellers (eg. Verified Rights Owner (VeRO) by e-bay)
- **Seller verification** - live verification through video call
- Formation of a **Counterfeit Crimes Unit** within the platform - well-trained staff
- Collaborate with the **Official Portal of Intellectual Property Corporation (MyIPO)**

# ISSUE 2: DARK PATTERN (DECEPTIVE DESIGN PATTERN)



## DECEPTIVE TECHNIQUE

- Organisations **utilise various design elements** such as colour, size, and placement in the user interface to influence the user's perception and recognition of options.
- Organisations exploit users' **fear of missing out** by emphasising the scarcity of their products.
- Organisations intentionally complicating the information systems through the **use of complex language and challenging vocabulary**.



## INFORMATION-HIDING DARK PATTERNS

- **Hidden Subscription** - where users are not informed that their purchase is actually a recurring subscription.
- **Hidden Costs** - keeps relevant cost details hidden until the user is about to finalise the transaction, making it less likely for them to change their decision.



# Combating Dark Pattern



## CONSUMERS

- **Educating consumers** - Learn about common dark patterns and how they work. This awareness will help consumer recognise and avoid falling prey to them.
- **Be vigilant online** - Be cautious of misleading or unclear information and don't rush through the process. Take a moment to consider the decision to purchase or subscribe.



## REGULATORS

- Establish **whistle blowing mechanisms** for public to report dark pattern interface they encounter – use naming-and-shaming approach.
- **Update and revise the existing legal framework** in Malaysia - to include specific provisions covering dark patterns.



# Combating Dark Pattern



## **BUSINESSES/USER INTERFACE DESIGNERS**

- **Infuse ethical concept into design** and **prioritise user's interest and experience** - Positive experience leads to better commercial relationship.
- Be **transparent** about billing practices and other material terms of a transaction - All the elements on website must be clear to the users



**Thank You**