

# MALAYSIA

COMPLAINTS

2013



NCCC

ANNUAL NCCC CONSUMER COMPLAINTS REPORT

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## Messsage from the Chairman of NCCC

It is with great pride that I present the 7th edition of the Malaysian Complains Series encompassing the consumer complaints received by the National Consumer Complaints Centre (NCCC). These are complaints on goods and services purchased by consumers in the market. Consumers aware of their consumer right to "seek redress" and not being satisfied with the goods or services purchased have sought assistance from the NCCC.

The Complains Series is primarily targeted at two parties; providers of goods and services as well as regulators. I sincerely hope that businesses will use this report to better understand consumers' needs and expectations and seek to fulfill those needs and expectations in the market. Additionally, businesses can better understand the specific issues related to their specific industry and hopefully can move forward by taking proactive steps to address these issues.

For the regulators, I hope that they will attend to the issues in the sector they regulate and take the appropriate actions to enhance consumer protection and consumer welfare. These steps include the need for new laws, amendments to current laws, enforcement of current laws or procedures, appropriate programs or mechanisms to ensure that consumers are better protected.

For NCCC, its partner, the Federation of Malaysian Consumers Associations (FOMCA), as well its other consumer organization partners, the Complains Series provides concrete evidence of the nature of issues and complaints being



faced by consumers. The consumer movement can thus advocate with the government and all key stakeholders for enhancing consumer protection and consumer welfare.

While there has indeed by a slight decrease in the number of complaints compared to 2012, the estimated monetary value of the losses suffered by consumers has increased substantially, that is by 34%. This is of great concern.

There has been some tweaking of the Report this year. There is an inclusion of a new category relating to consumers against the government services. Secondly, vehicles services have been merged with automobile services. Also, the complaints related to the e-commerce sector have been merged with complaints related to retail services.

Consumers today, especially the young workers, are demanding for value for their monies. They are also not hesitant to complain if they are not satisfied with the goods or services they receive.

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Additionally, when they are not satisfied with the product or services, or the response of the seller in relation to their purchase, they are using the social media to express their anger and frustration. All of these mean that businesses to maintain their consumers and grow their business with these new consumers, have to provide goods and services to satisfy their consumers. Also, if consumers are not satisfied and they come forward to complain, they must have a rapid and effective mechanism to address the complaint to the consumer satisfaction.

FOMCA as well and other consumer organizations have been actively promoting consumer rights and the need for consumers to exert their rights. One of the areas being emphasized is that consumers who are not satisfied with their purchase of goods or services, should not quietly accept their fate. They should come forward to complain to the seller, to NCCC or to the appropriate regulator. They should also use the Consumer Tribunals to fight for their rights.

The continuous increase of complaints over the years, show that more and more consumers are stepping forward to exert their rights. Business should understand the consumers rights and play the appropriate role to ensure that consumers protection and welfare is enhanced.

Yet, while many businesses respond to consumers and to NCCC positively; there are still many companies who continue to be recalcitrant and treat communication by consumers or NCCC with disdain. They continue to remain aloof and indifferent to consumers concerns and expectations. I hope that the regulators will act sternly with these business entities.

On the other hand, I invite all businesses to collaborate with us to address complaints in a timely and effective manner to the satisfaction of the consumer. This would surely win the heart of the consumer and perhaps win your customers' good will and loyalty.

NCCC looks forward to the support of industry, regulators and consumers to increase consumer satisfaction as well enhance consumer protection in Malaysia

**Datuk Dr. Marimuthu Nadason**  
*Chairman*  
*National Consumer Complaints Centre*

## About the Malaysian Complains Series

The Malaysian Complains Series aims to advocate consumer awareness through its annual report and to highlight to businesses what consumers want and what they generally expect in terms of quality of goods and services rendered to them. As such, it is for both the consumers and businesses to enhance the quality of exchange in the market.

The National Consumer Complaints Centre is of the view that businesses should keep abreast with Malaysian consumers as they are fast becoming more demanding and rather prudent as individual users. The advent and rampant use of social media has enabled young consumers to get in touch with consumerism globally. The younger generation of Malaysia are demanding value for every cent spent. It is no longer the days where consumers are afraid to voice their dissatisfaction openly. Consumers today are growing towards a society that demands for quality and performance in return for what they have paid for.

The Malaysian Complains Series has always strived to close the gap that arises between consumers and goods / service providers. It allows for businesses to study the complaints trend that will subsequently enable them to understand the wants and needs of consumers. This will then lead businesses to provide not only better goods / services but also customer satisfaction and retention, which plays a vital role in any business.

Published annually, this report is aimed at businesses, relevant government agencies and policymakers. It provides these entities with a better understanding of:

- The state of consumer protection in Malaysia
- The areas in which improvement is needed
- Consumer satisfaction in relation to goods / services from a wide range of categories
- Initiatives that should be implemented by relevant regulating bodies

The National Consumer Complaints Centre's (NCCC) report has always been and will continue to be utilized by researchers, media, policy makers and academicians for their purposes.

Finally, NCCC urges businesses to look into complains as a mechanism to provide better goods / services to consumers. The NCCC opines that businesses are still rather hesitant to accept that genuine complaints aren't bad after all; some may even call it a gift.

On the other hand, policymakers and relevant regulating bodies are urged to review the NCCC's policy and law reform proposals to ensure that adequate consumer protection is available to all Malaysian consumers.

## Introduction

### About the NCCC

The National Consumer Complaints Centre or NCCC is a non-profit organization. It was launched in July 2004.

### Vision

*To provide consumers with an alternative, fair, independent and efficient complaints handling mechanism while empowering them with knowledge to protect themselves from errant traders.*



### Mission

*To be the nation's preferred one stop centre for consumer dispute resolution.*

### Objectives

- *Guiding consumers in reaching an amicable solution amidst a consumer dispute*
- *Empowering consumers by constantly advocating the public on the importance of consumer rights*
- *Channelling all complaints to the relevant authorities for their further and immediate action*
- *Highlighting today's consumer news and happenings in the media*

# 2013 Complaints Report

## Executive Summary

There has been a slight drop in the number of complaints received by the National Consumer Complaints Centre (NCCC) for 2013. This year, the NCCC received a total of 40,560 complaints.

The money value of the total complaints for 2013 summed up to RM61,700,640.62 as opposed to 2012's RM40,586,511.37. This is an increase of 34.2%. As such, although the numbers of complaints have slightly reduced, the monetary value attached to these complaints has increased dramatically. These is rather clear of an indication that goods and services that are made available to consumers at large, regardless of their brand, has under-performed according to the consumers standards of acceptability.

Below are summary for the top 5 complaints (number of complaints according to Industry) received by the NCCC for the 2013:

### 1. General Consumer Product

Complaints in relation to General Consumer Products recorded the highest number of complaints this year. Complaints were mainly lodged in relation to a combination of household products, electrical and electronic products. Issues that were highlighted are product quality and the performance attached to it. Other issues like issues on warranty were also a major concern.

### 2. Telecommunications

There was an increase in the number of Telco complaints for 2013. This is in line with the World Consumer Day's Celebration theme, "Fix our phone rights". It seems to be an issue suffered by consumers worldwide. Complaints under this category highlighted the unsatisfactory services rendered by service providers in Malaysia. Also, there is lack of enforcement and inaction by the relevant authorities.

### 3. Retailers (Including E-Commerce)

A new inclusion in the top 5, this sector's complaints have increased substantially when compared to the previous year. This confirms that there are many individuals and companies out there that have their aim to mislead the general public when trading online. What is baffling is that regulating bodies have limited jurisdiction when complaints pertaining online scams or disputes are channelled to them.

### 4. Automobile

The number complaints under this sector witnessed an increase on the whole. Complaints received are on the built quality of cars, manufacturers defects and late delivery. Local car makers are constantly identified in the complaints trend. Other problems are mostly attributed to faulty component and unidentifiable cause of defects. Manufacturers must enhance the expertise of their Quality Control Department and set reasonable standards with regards to product safety and quality before offering cars to consumers.

## 5. Travel & Leisure Industry (Including Airlines)

For the first time, complaints under this category made the top 5 list. It simply goes to show that more people are travelling using low cost airline carriers and the services rendered by both, airlines and travel agencies are not up to acceptable standards. A lot of complaints indicate that airline carriers are not transparent with their terms and conditions, payments and cancellation procedures.

On the other hand, tour and travel agencies have recorded higher complaints against them. A high volume of complaints indicate that consumers are misled and misrepresented prior to the sales of a certain holiday package. Services rendered during the tour or holidays were entirely different from what was promised to consumers. Some companies even close down or wind up after a short period of time.

**Table 1: Number of Complaints and Value of Dispute (RM) According to Sector Category**

No	Sectors	No. of Complaints 2013	Potential Cost of Complaints (RM) - 2013
1	General Consumer Products (AS Services)	7,652	12,644,280.79
2	Telecommunication	6,404	3,219,783.00
3	Retailers (including online)	5,763	1,944,839.54
4	Automobile and Related Services	4,915	22,182,476.30
5	Travel and Leisure	2,313	1,228,698.11
6	Wellness and Aesthetics	2,013	1,671,350.75
7	Housing and Real Estate (including Renovation and Construction)	1,975	10,570,397.05
8	Banking	1,625	3,214,435.79
9	Utilities	1,606	697,702.93
10	Education	925	879,949.62
11	Postal and Logistics	900	440,089.59
12	Food and Beverage (Including Food Services)	812	46,389.56
13	Healthcare	788	462,383.64
14	Mass Transport and Mobility Related Services	725	78,113.20
15	Insurance	713	1,347,040.71
16	Broadcasting and Media (Subscription)	600	121,504.08
17	Others - Maid agency	396	253,507.65
18	Non-conventional Financing (including investment schemes)	201	80,915.33
19	Others - Legal services	165	587,016.92
20	Others - Government / civil services	66	29,766.00
<b>Total</b>		<b>40,560</b>	<b>61,700,640.56</b>

**Table 2: Value of Dispute (RM) According to Sector Category**

No	Sectors	Potential Cost of Complaints (RM) - 2013
1	Automobile and Related Services	22,182,476.30
2	General Consumer Products (AS Services)	12,644,280.79
3	Housing and Real Estate (including Renovation and Construction)	10,570,397.05
4	Telecommunication	3,219,783.00
5	Banking	3,214,435.79
6	Retailers (including online)	1,944,839.54
7	Wellness and Aesthetics	1,671,350.75
8	Insurance	1,347,040.71
9	Travel and Leisure	1,228,698.11
10	Education	879,949.62
11	Utilities	697,702.93
12	Others - Legal services	587,016.92
13	Healthcare	462,383.64
14	Postal and Logistics	440,089.59
15	Others - Maid agency	253,507.65
16	Broadcasting and Media (Subscription)	121,504.08
17	Non-conventional Financing (including investment schemes)	80,915.33
18	Mass Transport and Mobility Related Services	78,113.20
19	Food and Beverage (Including Food Services)	46,389.56
20	Others - Government / civil services	29,766.00
	Total	<b>61,700,640.56</b>

# **Report According to Sector Category**



**NCCC**

# 01 Complaints Related to General Consumer Products

## An Overview of Complaints Related to General Consumer Products for 2013

There has been a significant increase in the overall number of complaints received by the NCCC with regards to general consumer products. For the year 2013, the NCCC recorded a total of 7,652 complaints as opposed to last year's total of 5765 complaints. In terms of loss in monetary value involving all complaints in this category, there was a staggering increase from **RM2,803,930.71** to **RM12,644,280.79** when compared to last year.

The increase in terms of number of complaints for this category is an indication that manufacturers are continuously utilizing substandard materials in their production. This results in unjust profiteering as manufacturers are continuously supplying either substandard materials or defected goods / products to the consumers at large.

Additionally, below par customer service was also consistently identified in our complaints trend, with businesses having no regards for consumer's welfare. Complainants frequently lament that employees that are hired by businesses do not possess sufficient understanding of product and service knowledge and thus mislead them into purchasing a product or service. In some cases where there has been a misrepresentation or when consumers are misled, they have no remorse as it is not simple to prove that businesses in actual fact did mislead consumers into purchasing products and services.

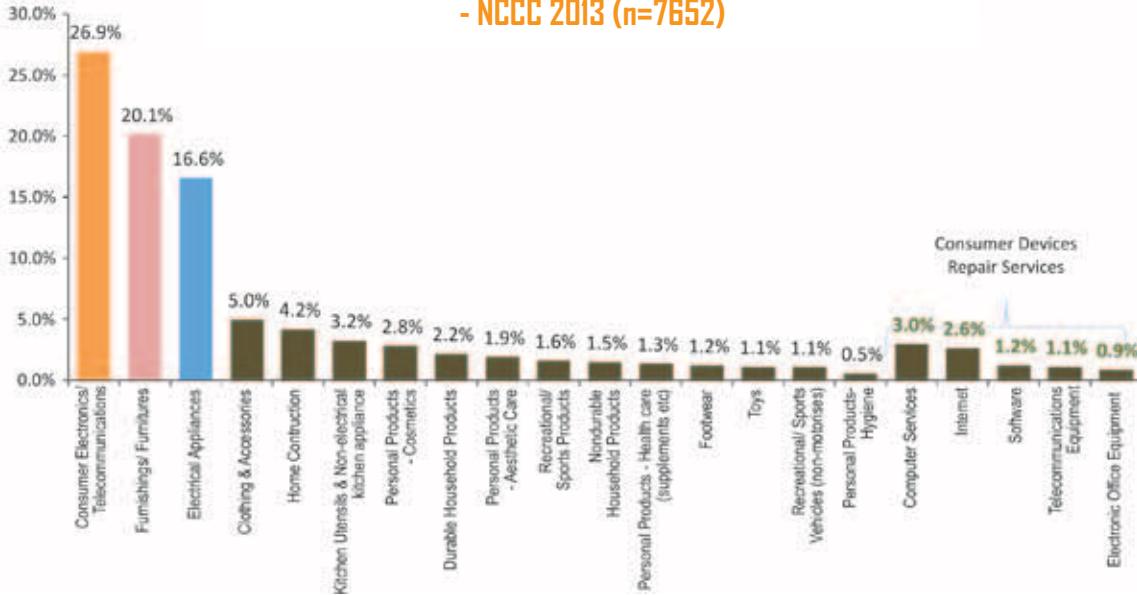


## Nature of Consumer Complaints Related to General Consumer Products 2013

The nature of complaints for General Consumer Product is topped by complaints lodged due to the quality of service, recording 40.3%. Referring to the complaints that the NCCC have received throughout 2013, it is obvious that consumers are generally dissatisfied as businesses seem to provide below par customer service i.e. taking down wrong orders, late delivery, failure to comply with orders and other service related complaints.

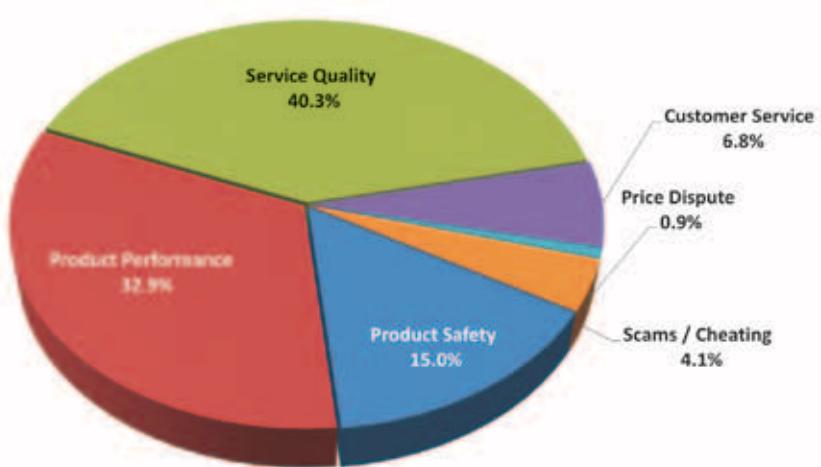
Complaints about product performance came in second highest with 32.9%. The complaints trend suggest that goods / products did not comply with its description and was not fit for the reason such goods / products were purchased.

**Percent of Total General Consumer Product Complaints (GCP)  
- NCCC 2013 (n=7652)**



**Figure 1: Complaints Related to General Consumer Products (GCPs)**

**Nature of Consumer Complaints Related to General Consumer Products  
- NCCC 2013 (n=7652)**



**Figure 2: Types of Complaints against Telecommunication Service Providers**



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Complaints on product safety came in third highest with 15%. These complaints were made due to safety reasons i.e. products / goods that could harm the consumers due to its shoddy workmanship. These products have failed to comply with the minimum safety standards and this has led to some complainants seeking for a refund or replacement of goods / products.

## Consumer Electronic / Telecommunication Products Top the Complaints Chart

As in previous years, consumer electronics / telecommunication products recorded the highest number of general consumer product complaints i.e. 2501 complaints. Complaints were mainly lodged due to bad customer service quality by businesses for example when inquiries were not answered satisfactorily or in some cases where consumers were deliberately misled.

On the other hand, the quality of service rendered i.e. product repair, warranty and etc. recorded second highest complaint for the type of complaints received under this category. Complainants often feel dissatisfied when repaired products pose the same problem

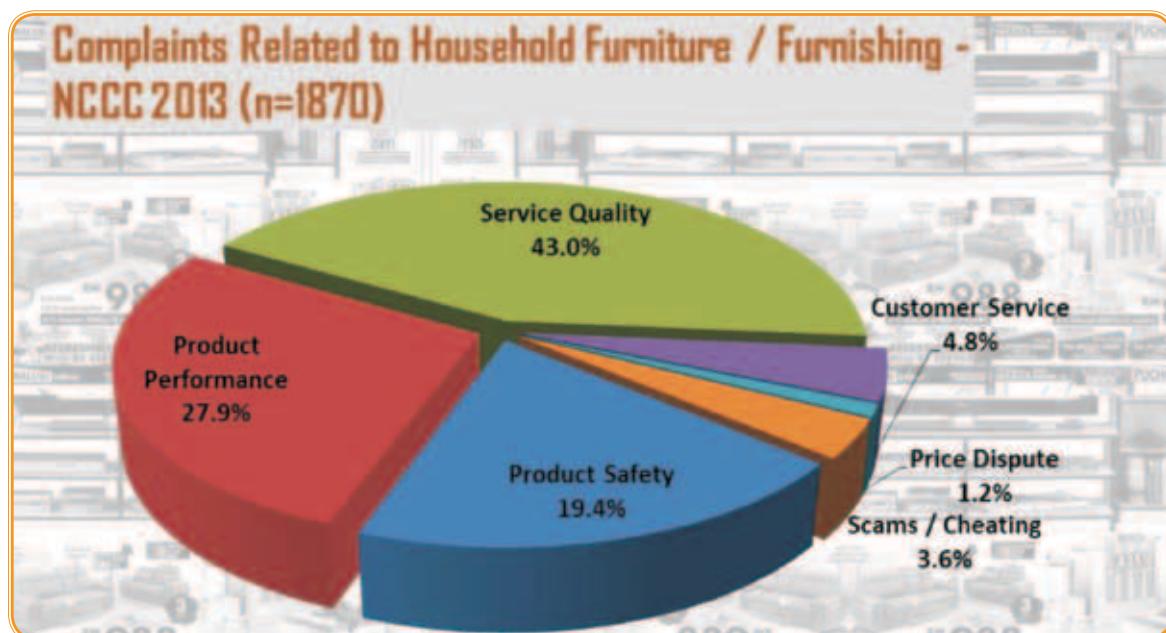
Complaints with regards to product safety recorded 23.0% out the total complaints received for consumer electronic / telecommunication product.

## Complaints Related to Household Furniture / Furnishing

Complaints with regards to furniture was second highest, amounting to 20.1% of the total complaints received by the NCCC for General Consumer Products.

Highest numbers of complaints were lodged with regards to the quality of service rendered by furniture manufacturers. The usual type of





complaints under this category are delay of delivery of furniture's or fittings, no delivery at all, the winding up of furniture factory, very late refund and in some cases no refund at all. Some issues with warranty and replacement were also recorded.

At least 27.9% out of the total complaints received with regards to furniture were recorded due to product quality and performance. Furniture purchased were defective as soon as they were purchased, or after a short period of use.

Product safety recorded the third highest complaints with 19.4%. One such incident reported involves tempered glass (or safety glass) having 'exploded' or shattered all of a sudden. Even in such cases, manufacturers seem not to be consumer sensitive, insisting that incidents of this sort were normal due to heat.

## Complaints Related to Electrical Appliances

Poor Service quality and product performance comprise the majority of complaints related to consumer electrical appliances.

Complaints were made towards the service quality and under performance of products, especially when dealing with disputes, enquiries and when seeking refunds for faulty products.

At least 22.1% out of the total complaints on electrical appliances were lodged due to product safety; explosion of television, computer monitors, chargers and adaptors sudden shot circuit causing major trips, fuse of modem, plug point and main switch and some even leading to small flames. In some of the instances mentioned above, minor injuries were sustained by the complainants.

## Consumer Protection Laws Applied to Manage Complaint and Voluntary Initiatives / Tools

### 1) Laws

#### a) Product Performance

Notwithstanding that **Section 32 of the Consumer Protection Act 1999** confers protection to the general consumers by stipulating that all goods purchased shall possess implied guarantee



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### Nature of Complaints Related to Electrical Appliances - NCCC 2013 (n= 1539)



of acceptable quality, a very high volume of complaints received by the NCCC in regards to general consumer products are lodged due to the inferior quality of certain products purchased by them.

Additionally, goods that are supplied to consumers are to be fit for the particular purpose it is purchased. **Section 33 of the same Act** provides consumers with this specific protection. More often than not, goods under the general consumer products are purchased with the intention of the consumers for daily consumption i.e. TV's, mobile phones and laptops. As such, consumers are highly dependent on the skills and judgement of a salesman concerning the attributes of a certain product. In the event a product does not perform for the purpose it was purchased, there is then born an aggrieved consumer. Amidst such an incident, this section shall come in handy in safeguarding their interest.

In view of this, the NCCC strongly opines that all relevant regulating bodies should on a time to time basis conduct adherence check on manufacturers and suppliers of all types of general consumer goods to ensure strict

compliance in efforts to safeguard the interests of Malaysian consumers at large.

#### b) Product Safety

Safety has and will always be the one of the primary concerns of the NCCC. Although having received very few complaints, the NCCC urges consumers and retailers of all types of general consumer products to always be vigilant concerning safety. Safety issues attached to a product may pose all type of dangers to consumers be it on a short term basis or long one.

**Section 19 of the Consumer Protection Act 1999** has been drafted to specifically tackle safety issues of products where it comprises of performance, composition, contents, manufacture, processing, design, construction, finish and packaging of a certain product.

**Section 20 of the same Act** reads that no person shall supply, or offer to or advertise for supply, any goods or services which do not comply with the safety standards determined under Sec 19 of the same Act.

Additionally, the **Consumer Protection (Prohibition against Unsafe Goods) Order 2011** spells out that any goods that are found to be unsafe must be recalled with immediate effect by the respective suppliers upon realization of such.

To this, the NCCC once again urges the relevant regulating bodies to conduct a time to time safety and standards check to ensure manufacturers and suppliers are adhering to the laws, regulation and guidelines that are available in regards to product safety.

### **For Domestic Electrical Appliances**

The requirements for safety under this category is to a large extend covered by the Electricity Regulations 1994.

This said regulation amongst it aims is to ensure the efficient use of electricity with regards to:

- Any domestic equipment
- Any equipment which is directly sold to the general public; or
- Any equipment which does not require special skills in its operation

Manufacturers, importers, exhibitors, sellers and advertisers of electrical equipment prescribed under the sub regulation 97(1), of the Electricity Regulations 1994 must ensure that their obligations under the said Regulations are fulfilled.

In the event equipment is deemed to be unsafe or dangerous by the Commission, or has the likelihood of being unsafe or dangerous to use, then the Commission reserves the right to prohibit the manufacture, import, display, advertisement or sale of the equipment and may direct the person in sub regulation (1) to withdraw with immediate effect all equipment from use or sale and when necessary seize or remove such equipment.

### **c) Misrepresentation**

Should a consumer be disgruntled due to the misrepresentation made by a supplier of goods and services, then they may proceed with legal action against the respective party. The rights of consumers who suffer such a faith are enriched via Section 18 of the Contracts Act 1950.

Alternatively, **Section 10 of the Consumer Protection Act 1999** similarly offers such protection to aggrieved consumers who were misrepresented as to the attributed of a specific good or service.

Depending on circumstances of the contract and the misrepresentation, consumers may seek for damages accordingly. Additionally, under the **Consumer Protection Act 1999**, consumers may seek for redress and this too will depend on the type and nature of misrepresentation that had occurred and in view of the all the attributes attached of the goods involved.

### **d) Product Performance**

Services here are made in reference to the acceptable time frame in which a supplier or manufacturer cures a defective product i.e. repair time and the availability of a certain spare part of a product which is an inseparable feature attached to a product in any case of a repair or restoration. **Section 41 of the Consumer Protection Act 1999** specifies strictly that suppliers of goods are expected to remedy a defect of a product within a reasonable time period. Additionally, **Section 37 of the same Act** stipulates that products that are supplied to the general public must be repaired as soon as practicable. This is yet again an important law. The regulating bodies should be stringent in applying such and to also ensure strict adherence by the respective parties as general consumer products such as mobile phones, laptops and other devices are used by many in their daily lives. This would go to mean that it



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more often than not involves loss of income, expectation and etc with today's world being highly dependent on such devices.

## 2) Voluntary Initiatives / Tools

### a) For General Consumer Products (Excluding Furniture)

Quality and performance are always regarded as an important attributes of a product by consumers at large. Electrical appliances and accessories must generally adhere to performance and safety standards prior to being available to the consumers for sale.

After having said that however, one may find that not all products available for sale to the consumers at large are in compliance with the performance and safety standard despite the development of such by the Department of Standards Malaysia. These standards are more often than not an adoption of the already available international standards while some are modified to suit our local settings.

It is only when the regulating bodies render these standards as compulsory requirements will the Malaysian consumers enjoy a wide product range that is available in acceptable standards in performance and quality.

For a more detailed explanation on standards kindly visit [www.msonline.gov.my](http://www.msonline.gov.my)

### b) For Furniture

There are a number of Malaysian Standards set for the specifications and quality of furniture. However, these said standards are only voluntary in nature. Following are some of these standards:

- MS2284:2010 Domestic Furniture-Beds and Mattresses-Safety Requirement and Test Methods

- MS ISO 9098-1:2008 Bunk Beds for Domestic Use-Safety Requirements and Test-Part 1:Safety Requirements (ISO 9098-1:1994, IDT)
- MS 1581-2:2012 Furniture- Storage Units Part 2;Determination of Strength and Stability of Domestic and Contract Storage Furniture (First Revision)
- MS 1581-1:2012- Furniture Storage Units Part 1- Safety Requirements and Test Methods for Domestic and Kitchen Storage Units and Workshops (First Revision)
- MS 1711: Part 2: 2003 Furniture –Office Chair (Adjustable) : Part 2:Safety Requirements
- MS 1711: Part 1: 2003 Furniture- Office Chair (Adjustable): Part 1: Dimension-Determination of Dimensions
- MS 1764: Part 3: 2004 Furniture –Seating : Part 3: Determination of Stability (Domestic)

## Recommendations for Improvement

Firstly, we urge all enforcing and regulating bodies to work with the NCCC. This would mean to have a sit down with the NCCC every quarterly to further discuss on emerging issues in relation to consumer complaints. This would enable the enforcing and regulating bodies to have a better understanding of the trends in complaints. Additionally, the NCCC should also be extended an invitation to attend law reform discussion on a yearly basis to review the Consumer Protection Act 1999. Again, this should be done in efforts of filling up all loopholes that are prominent in the said Act. Additionally, it will also allow for new policies, laws and regulations to be recommended to the enforcing and regulating bodies.

The NCCC views this as being an important practice as laws need reform from a time to time basis.

The NCCC is also of the view that the Malaysian Competition Commission (Suruhanjaya Persaingan Malaysia) should look into the business practises of manufacturers of the oligopoly and monopoly market. This is seen to be an important as it helps curbs anti-competitive business practices and promotes overall healthy market competition thereby providing the consumers with choices and better quality products.

When concerning furniture, the NCCC is of the view that the Malaysian Furniture Entrepreneur Association (MFEA) and their likes should collectively work closely and assist the Ministry of Domestic Trade, Cooperatives and Consumerism (KPDNKK) and the Malaysian Standards Department to review and recommend changes in laws, rules, regulations and guidelines. This would ensure all furniture makers and importers are in compliance with a specific standards set thereby allowing consumers to enjoy products that are of acceptable quality and safe.

## A Dash of 'Lemon'

The Ministry of Domestic Trade, Cooperatives and Consumerism or KPDNNK is urged to further revise the CPA or the Trade Description Act – whichever relevant to incorporate elements of 'Lemon Law' practiced in Singapore and also the United States.

Under the Lemon Law, if a defect is detected within 6 months, it is presumed that the defect existed at the time of sale or delivery. However, this law is not applicable should the dealer or seller proves otherwise, or if such a presumption is incompatible with the nature of the goods i.e. food products and other products that don't have shelf lives longer than 6 months.

Should a consumer wish to invoke lemon law after the given 6 months period, then he or she can do so with the burden of proving that the defect existed at the time of delivery on him / her.

The Lemon Law covers all consumer goods with the exception of property and leased goods. Perishables and consumables goods are within the ambit of lemon law but the presumption that defects reported within six months exists at the point of delivery will only apply up to the normal shelf-life of the perishable / consumable, if the shelf-life is less than six months.

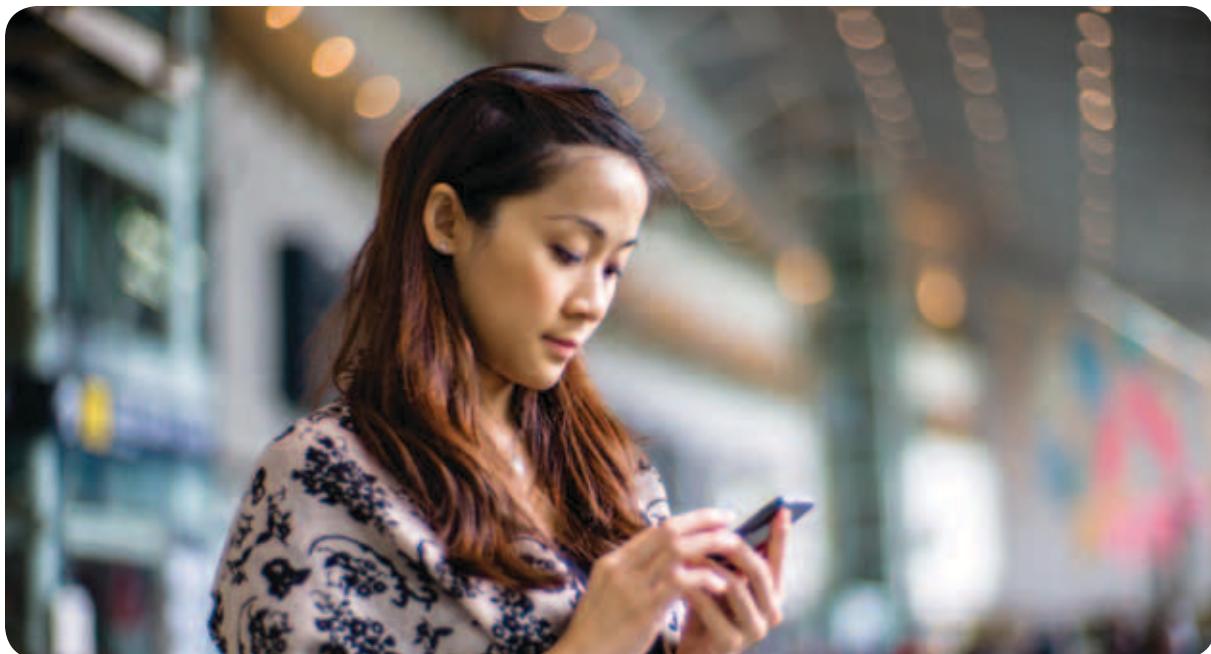
The lemon law applies to both new and second-hand goods i.e. vehicles, tablets, computers and etc as protection is likely to be most needed for such goods. This is the common practise of Lemon Laws in other jurisdictions. However, the terms for first hand goods and second hand goods may apply differently.

The courts will take into account the age and price paid for a second hand good when determining reasonableness of a certain type of claim. For example, if consumers purchase a 10-year-old car, they could not reasonably expect it to be like a brand new car. However, they can expect it to perform in a manner that may be reasonably expected of a car of that mileage and model. If it fails to do so, the consumer can seek remedies from the dealer.

The lemon law applies to discounted products or items on sale as well. Slight defects or limitations are not excluded from the law. However, should a defect or limitation of any sort of these goods be pointed out to the consumer before a transaction, the retailer would not be held liable for such defects or limitations.

Online transactions should also be covered under the Lemon Law, as in other jurisdictions such as UK and EU.

## 02 Complaints Related to Telecommunications



The NCCC recorded 6404 complaints in 2013 against the telecommunication sector. The total value loss is significantly higher for 2013 that is RM3,219,783.00. The amount increased approximately by half a million compared to 2012 and this clearly indicates that Malaysians are paying too much for telecommunication services.

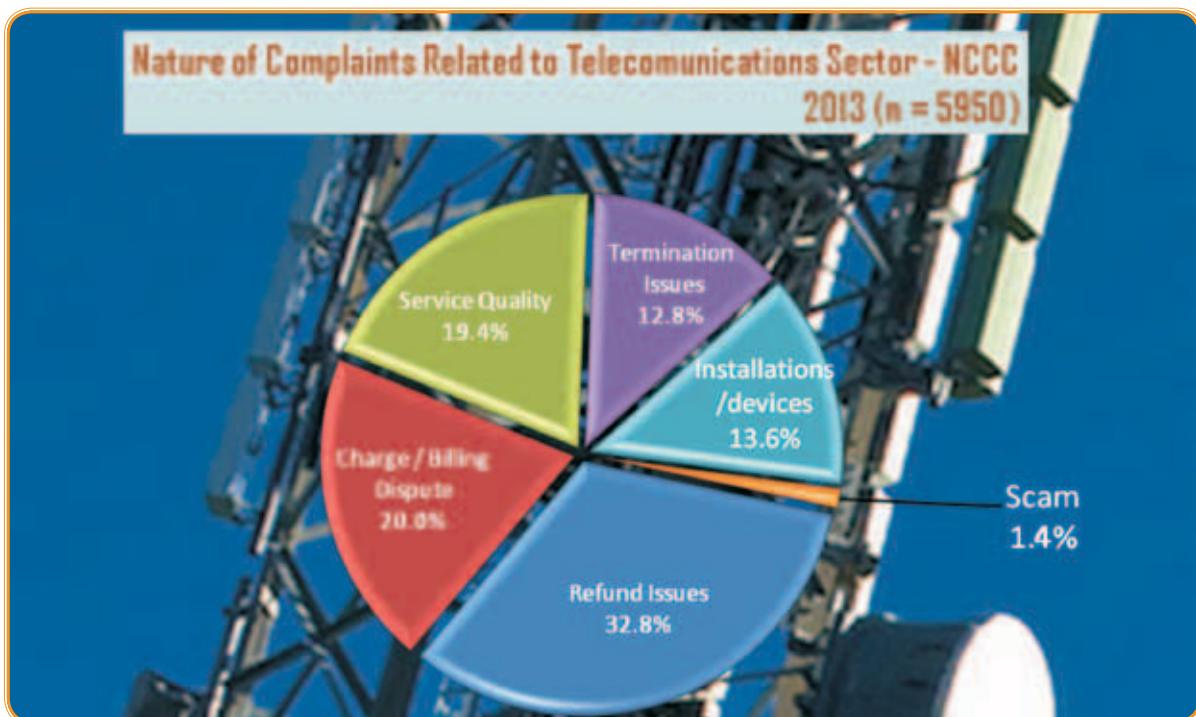
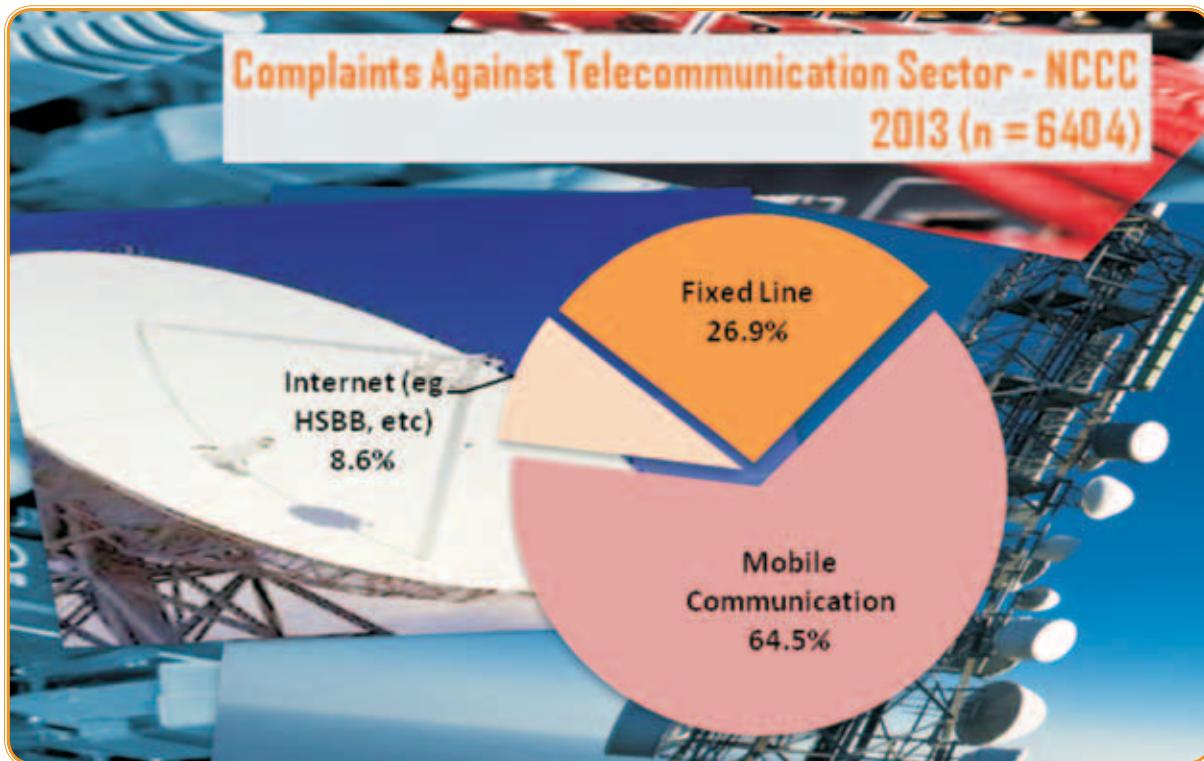
### Types of Complaints

Complaints lodged against mobile communication related services formed 64.5% from the total complaints received. This area of complaints capture several issues in regards to all services by the Telco Company except for matters related to fixed line and internet / broadband. Services provided by Telco Company have now gone beyond line / calls and internet service. The complaints will be discussed extensively later

in this report. Following closely complaints on mobile communication are fixed line and internet communication (e.g. HSBB, etc.) whereby both makeup 26.9% and 8.6% respectively.

### Nature of Complaint

Issue related to refund constitutes the highest number of complaints (32.8%). The issue of refunds are interrelated with other complaints and cannot be analysed in isolation. Complaints related to charge / billing dispute came in second, amounting to 20% whereby complainants argued that they were charged for services that has not been rendered to or subscribed by them. Similar with the previous years, billing dispute are mainly due to unsolicited sms, wrong charges, and free sim card. According to consumers, charges from unsolicited sms results in them paying a lot more than their actual usage. It is



strange that an unknown third party has access to consumer's phone number and charge them directly without obtaining prior consent. This ultimately shows the lack of Telco companies in adhering to data protection system.

Also, there has been an issue of free sim cards distributed by Telco companies. These sim cards were represented as free to the consumers and they would not be charged until and unless they activated the card. However, consumers were still charged though they have never activated; the only act that they ever did was registering their name upon obtaining the sim card.

19.4% of the complaints addressed to the services quality provided by the industry. The issues among other include poor connection (both call and internet) and bad customer service. According to consumers, it is almost impossible to make a call or to surf internet when there is a problem with the connection.

Complaints on termination constitute 13.6% out of the 6460 complaints. According to the consumers, they were asked to pay a certain penalty in order to terminate the account although their reason was because there is no connectivity in that area which is admitted by the service provider as well. Furthermore, in some cases consumers were still billed for services that had been terminated. Due to absence of release letter or confirmation stating that the account had been terminated or closed, consumers are forced to settle the arrears.

The increase in amount of complaint this year shows that Telco companies and the regulator are to be more effective to tackle the problem with the industry. Laws and regulations would not have no meaning unless they are enforced.

## Consumer Protection Laws Applied to Manage and Voluntary Initiatives / Tools

### 1) Laws

The Malaysian Communication and Multimedia Commission (MCMC) is the regulator for Telecommunication industry. **The Malaysian Communication and Multimedia Commission Act 1998** granted the power on the MCMC to take action and regulate new law in order to ensure better systems which include but not limited to conduct of service providers, consumer redress and what not within the industry itself.

- **Section 16** provides for the powers of the Commission which cover all incidental matters in relation with the performance of the industry. This includes the legislation of law, implementation, enforcement, so on and so forth.

A law called **Communication and Multimedia Act 1998** was passed and enforced to specifically regulate functions of the industry. Breach of the act will constitute an offence and thus punishable in accordance with the Act itself.

- **Section 188** provides that any network facilities provider, network service provider, applications service provider shall – deal reasonably with consumers; and adequately address consumer complaints. Breach of this act will result in fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding six months or a combination thereof.
- **Section 189** provides that the Commission has the power to form a consumer forum for the purpose of protection the rights of the consumers.
- **Section 190** provides that consumer code prepared by Consumer Forum shall include model procedure for – reasonably meeting consumer requirements; complaint handling process and protection of consumer

information. The matter in the code may include but not limited to – information on services, rates and performances; the provisioning and fault for repair services; advertisement and representation; matters related to credit; other matters related to consumer concerns.

- **Section 195** vested the power on the Commission to resolve complaints from consumer in accordance with the Act.
- **Section 196** provides that Commission shall establish procedures or guidelines related to consumer complaints and practices of the licensees.
- **Section 197** provides that service providers may set the rate in accordance to market rates and the rates must be published clearly to the consumers.
- **Section 198** provides that the rates set by the service provider must be based on – fairness / not discriminatory; costs oriented; no discount which will lead to anti – competitive behaviour; structured and clear explanatory of rates; and regulations and recommendations of the international organization.
- **Section 199** provides that Minister may intervene freely in setting the rates upon the recommendation of the Commission.

Besides having the Act, a body called Consumer Forum Malaysia (CFM) was formed under **section 94** of the Act by the Commission to ensure the efficiency of the law enforcement. Following this, by virtue of **section 95** the CFM issued the **General Consumer Code of Practice for the Communications and Multimedia Industry Malaysia** in 2003 (in accordance with section 190) to further explain and dictate the code of conduct to be complied by the industry. The Code contains 6 important parts:-

- **Part 1 Introduction:** This part provides the basic overview on the functions and objectives of Code and to what extent it covers.

- **Part 2 Rules of the Code:** There are two main subcategories under this part – provision of information and protection of personal information. Provision of information provides specifically for matter related to services provided by the industry to consumers which include pricing, term and termination, redress, after sales support and what not. Whereas the second categories deal specifically with consumers personal data and what are the protections need to be provided by the service providers.
- **Part 3** provides for complaint handling process and all matter related thereto.
- **Part 4** provides for the medium or mode that can be used by the service providers to ensure and demonstrate their compliance with the provisions contained in the Code itself.
- **Part 5** specifically mentioned about the duty of CFM in documenting the status and conduct of the service providers after monitoring has been done. The report will be publicised via Consumer Forum's publications.
- **Part 6** provides that CFM shall conduct a regular monitoring process on the conduct and services rendered by the industry to consumers and call for review or amendment when appropriate.

## Recommendation for improvement

- The Code should be reviewed and updated to suit the current circumstances. Furthermore, the enforcement must be more active in penalizing service providers that likes to breach the code perpetually without taking the initiative to abide by the Code and the Act.
- The Ministry must take stern action against service providers that has been disclosure the data of consumer to third party without consent. Apart from that,

content providers must also be penalized for charging consumers in absence of subscription to their services.

- The amount of fine imposed for contravention of the Code and the Act should be increased in order to have the deterrent effect.
- Service providers must not charge consumers for the services which have failed to be delivered to consumers such as poor connection (hsdpa / wifi / call, etc.) especially when the performance is totally substandard.
- **Section 187 of the Multimedia Act** should be amended to include liability on services providers without license.
- Panel in the Consumer Forum should comprise both representatives from the industry and consumer body in order to achieve a proper and balance organization and system.

## 03 Complaints Related to Retail & E-Commerce

The NCCC received a total of 2051 complaints for retail services in 2013. 51.8% of the complaints focused mainly on the sales ethics of the retailers regardless of the services provided to consumers.

According to consumers, retailers were unable to deliver goods as per the description of order and no initiative was taken to remedy the situation until consumers brought this matter to NCCC and other judicial bodies such as Tribunal.

Meanwhile, 27.5% of the complaints are related to broadline retailers in regards to expired products, misleading prices and advertisements. Bad customer service is also not alien when it comes to complaints under broadline retailers. The way consumer grousers were handled show that there is a lacking in professionalism of the customer service personnel. On the other hand, 7.9% of the complaints are in regards to specialty retailers such as musical instrument, watch shops, gadget and etc.

The other type of retailers complaint contributed less than 4.8% of complaints range as shown in the figure above. Complaints on convenient stores and mini market mostly talked about the variance in prices as well as the quality of product sold in stores. Some of the products should have been removed from the shelf but it was still put on sale despite being unfit.

Complaints on apparel retailers basically revolved around the issue of quality and prices. Like any other sector, misrepresentation is one of common complaints received especially in regards to prices and promotions.

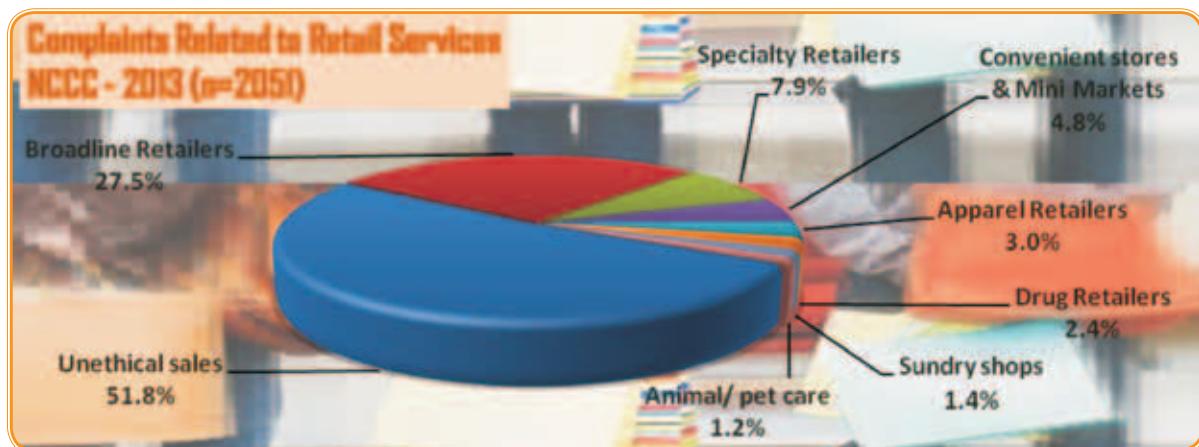


### Consumer Protection Laws Applied to Manage Complaints Received

#### 1) Laws

Redress mechanism and consumer rights are stated under the **Consumer Protection Act 1999**. Failure to abide by the act will give rights to consumer to file a case at the relevant judicial body depending on the monetary value involved.

- **Section 13** misrepresentation on price and nature of the product amounted to an offence.
- **Section 53** provides where services are



**Figure 1: Complaints Related to Retail Services**

supplied to a consumer, there shall be implied a guarantee that the services will be carried out with reasonable care and skill.

- **Section 54** provides that implied guarantee shall cover matters relating -
  - (a) Reasonably fit for any particular purpose; and
  - (b) of such nature and quality that it can reasonably be expected to achieve any particular result, that the consumer makes known to the supplier, before or at the time of the making of the contract for the supply of the services, as the particular purpose for which the services are required or the result that the consumer desires to achieve.

## Recommendations for Improvement

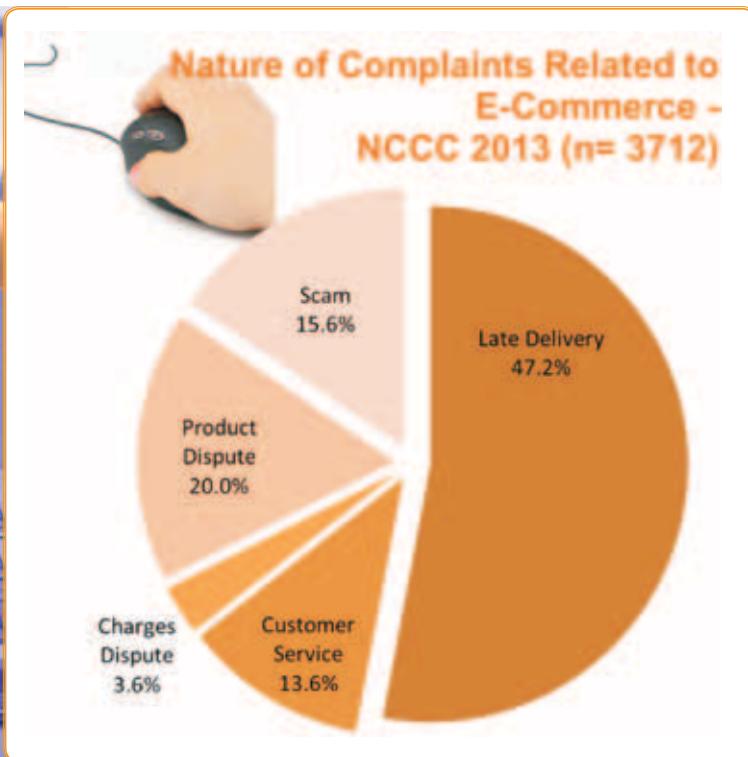
- The Ministry of Domestic Trade, Co-operatives and Consumerism should set up a unit to closely monitor advertisements to ensure misleading advertisements are not displayed to the general public at large.
- The Malaysian Communication and Multimedia Communication (MCMC) should increase their efforts to take stern

action against those putting up misleading advertisements online.

- Regulating and enforcing bodies should monitor strictly the way in which retail outlets conduct their instalment plan. The vast majority of complainants under this category are from the lower income group of the society thus, the regulating and enforcing bodies should curb unfair practices that will allow retail outlets to make continuous profits out of consumers financial constraints.

## Complaints on E- Commerce

The NCCC recorded 3712 complaints on E – Commerce which is a significant increase compared to the previous year whereby the complaints received were only 874 in total. This shows that consumers prefer to purchase online despite knowing that they are vulnerable to scams and various problems related to online purchase. Most of the website operates the business as web store whereby the goods and services are actively trade through the website itself whereas certain website only operates as a platform for traders to advertise their products.



## Nature of Complaints

Referring to the pie chart above, consumers' grouses are mainly focused on late delivery (47.2%) by the online traders. No appropriate or adequate reasons were given by the merchant when there is a delay to deliver goods to consumers. Furthermore, merchants keep consistently giving wrong confirmation as to the delivery date and refused to refund consumers when they decide to cancel the purchase. Consumers were asked to wait without proper explanation.

20% of the complaints involves the condition and nature of the products delivered to consumers. Product dispute involve issues such as goods are different from what was advertised, lacking in its features (specification) and product defects.

Scam is one of the biggest issues in the E-Commerce industry. The reason for this is due to the fact that some online retailers conduct

their business without registering their business with the Companies Commission of Malaysia. These merchant are able to mislead consumers because they know redress is impossible against them due to lack of information i.e. business address, identity of the seller and other essential information. The amount involved can go up to few thousands in one transaction because normally these traders sell expensive goods to the victim.

There were also complaints against Web stores. 13.6% of the complaints solely focused on the efficiency of the customer services in answering enquiries and handling disputes. Feedback received by consumers were mostly negative because the customer service personnel often cannot be contacted regardless if the effort is made through contact number or email address. Charges or price dispute constitutes 3.6% whereby the price charged was different from what was advertised.

## Consumer Protection Laws Applied in Managing Complaints

### 1) Laws

There are a few statutes which can be used as grounds for redress for example **Sales of Goods Act**, **Trade Description Act**, **Consumer Protection Act**, and so on. Nevertheless, in this context, The **Consumer Protection Act 1999** is the most accurate act to be referred to when there is a dispute between seller and purchaser for goods purchased through online market.

- **Section 32** provides that goods supplied to consumers must possess the acceptable quality which conforms to the nature of the goods itself. The goods must be fit for its purpose; acceptable in appearance and finish; free from minor defects; safe; and durable.
- **Section 33** provides that there shall be implied guarantee as to fitness for particular purpose for goods supplied to consumers. The goods must be fit in accordance with the request by the consumer or the representation by the supplier itself.
- **Section 34** states that goods supplied based on description must correspond with the description communicated to consumers.
- **Section 36** provides that where goods are supplied to consumer, there shall be implied guarantee that consumer shall not be liable to pay more than the agreed price.
- **Section 41 & 42** provides that where the goods supplied to consumers contain defects and the defects can be remedied, the supplier must take the reasonable step to remedy the defects.
- **Section 44** states that where goods depart from its original description or attribute and the good cannot be easily remedied within reasonable time, such situation will be considered as failure of substantial character.

- **Section 46** provides that where consumers have rightfully rejected goods, they will have the option either to opt for refund or replacement.
- **Section 48** states that dealer / merchant has the duty to supply the goods correspond with the representation.

In order to ensure a better and ethical sale through online marketplace, The Ministry of Domestic Trade Cooperatives and Consumerism issued a regulation under the Act to deal specifically with online purchase. The **Consumer Protection (Electronic Trade Transactions) Regulations 2012** was enforced on 1st July 2013 to regulate and provides for the requirement of a valid web store.

- **Rule 3** states that online merchant must disclose information specified in the schedule: -
  - i. information related to business, i.e. owner, or company's name or business' name
  - ii. company registration number if applicable
  - iii. contact information, i.e. email address and phone number, or the business address
  - iv. description of the goods sold
  - v. full price inclusive transportation cost, tax and other costs
  - vi. method of payment
  - vii. terms and conditions
  - viii. estimated time of delivery of the goods to consumer
- **Rule 4** provides that online merchant must provide the means for the consumer to rectify any mistake as to the information supplied by consumers. The merchants also have the duty to acknowledge receipt of any order or request from consumers.
- **Rule 5** makes it mandatory for online merchant to keep a proper record of their customer for a period of two years.

Online merchant are required to register their business with the Companies Commission of Malaysia in accordance with Registration of Business Act 1956. Contravention of the Act might be fined not exceeding RM50,000 or for imprisonment not exceeding two years or combination of both upon conviction.

## Recommendation for Improvement

- The Ministry of Domestic Trade Cooperatives and Consumerism should be sterner in dealing with merchant who refuses to register their business.
- Terms and conditions in relation to the sale and purchase must be stated clearly.
- All costs, prices, methods and manner of delivery should be clearly stipulated so as to avoid confusion to the customer.
- The consumer's options in the event of a default by the merchant should also be included to protect the consumer.
- Certification of trusted e-commerce sites should be made in order to guarantee the reliability and credibility of the web store as well as to provide confidence to consumers to purchase online.

# 04 Complaints Related to Automobile Sector & Vehicle Services

For 2013, the NCCC has included vehicle services i.e. workshop and inspection services to be under this category hence there is a significant increase in the number of complaints. This year, the NCCC recorded a total of 4915 complaints with regards to the automobile sector.

A high volume of complaints received are in regards to brand new cars manufactured by some of the top companies – mostly local car makers. Issues that were constantly highlighted were pertaining to refunds and deposits that involved both, new cars and second hand cars. Refunds were also identified to pose problems when consumers deal with workshops.

Locally manufactured cars top the number of complaints received. Nevertheless, complaints on imported cars have also increased. The total potential monetary loss from the automobile industry is estimated to be at **RM22,182,476.00**.

Complaints pertaining after sales services recorded the highest type of complaints with 48.0% out of total complaints under this sector.

Product safety complaints contributed 25.3% of the total complaints under this category. Complaints regarding product performance came in third with 18.4%.

The issue on the automobile sector ranges right from the delivery of the vehicle to the warranty and service. The common disputes with the industries are:

- Refunds and deposits (Refusal of refund by



carmakers or authorised dealers)

- Stalling vehicle in the midst of a journey
- Tires exploding
- ABS malfunctioning
- Gear box and automatic window malfunction

## Safety Related Complaints

Safety related complaints accounts for 25.3% of the total complaints in the automobile sector. This aspect was highlighted in the past report

One brand has been identified to have constantly been disregarding its customers as it did not follow suit by providing an extended 10 year warranty, like it did in other countries.

Automakers operating in Malaysia especially the local brands are not very forthcoming with safety issues related to their brand of cars. They continuously ignore consumer grousing and even

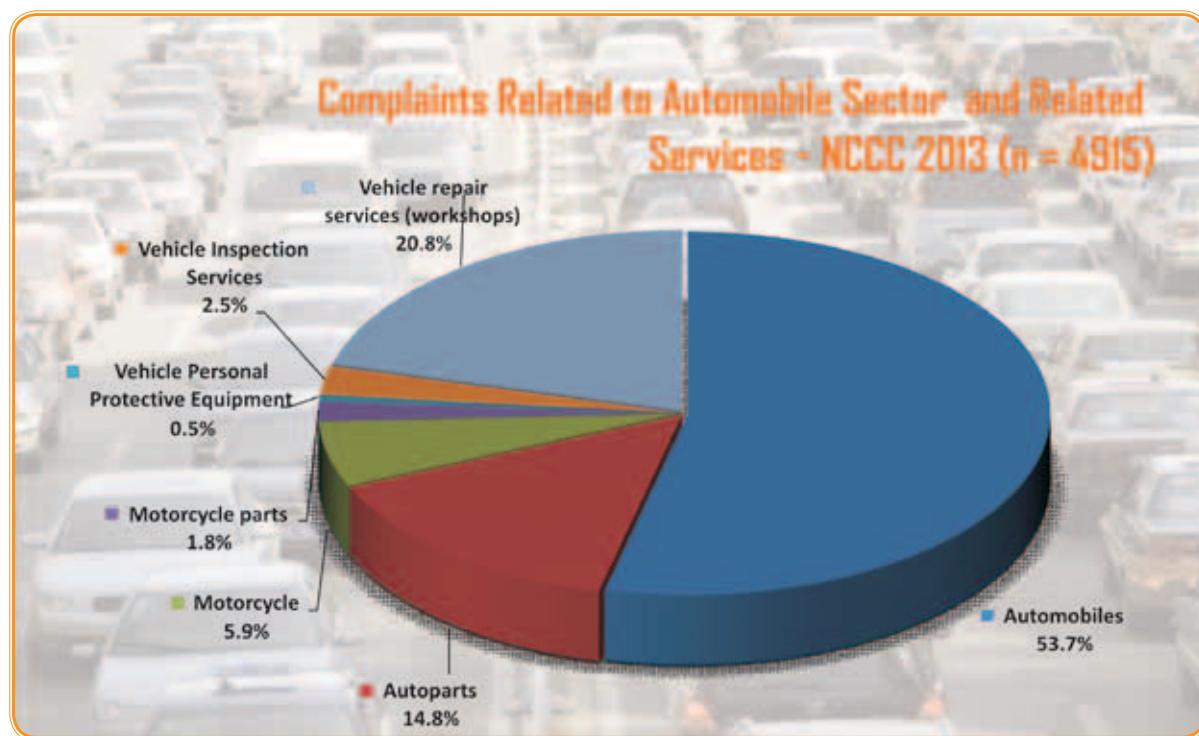
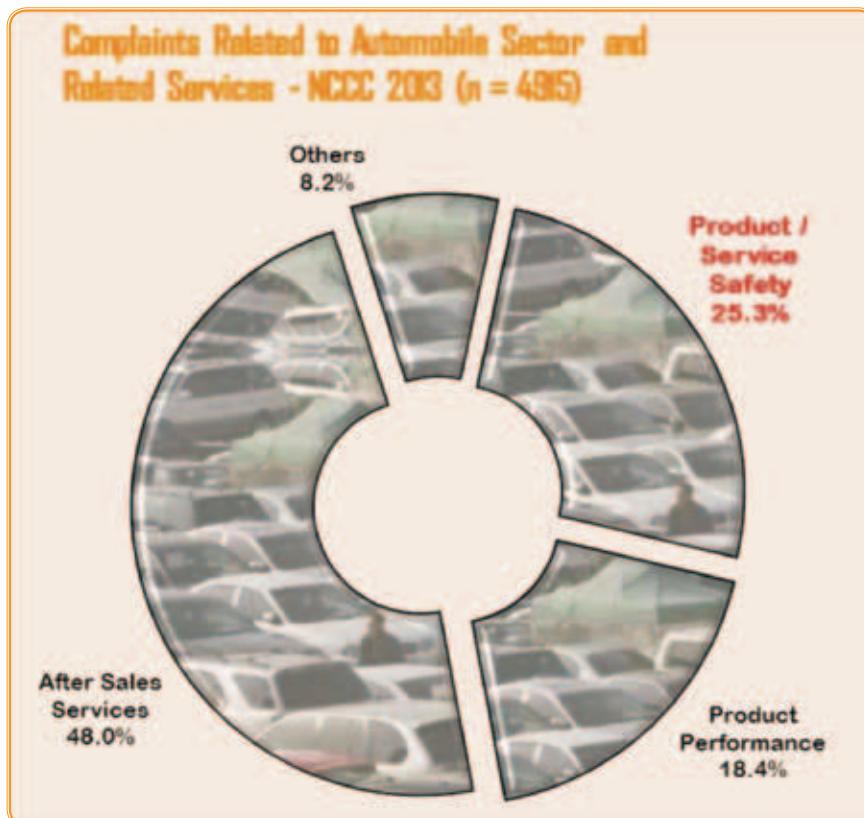


Figure 1: Types of Complaints Related to Automobile Sector





NCCC

# annual report 2013

if they hear them out, it seems to be purely superficial. Maximising sales at the expense of consumer's safety is something not acceptable.

Another safety concern with automobile is the use of substandard or fake spare parts. The cannibalization of parts from accident or damaged vehicles for use in existing on the road vehicles adds to the list of safety problems. Many of the safety complaints from consumers make reference that they (complainant) suspect the parts used / replaced / changed are substandard (not original parts), fakes or second hand. There has been complaints of cars stalling in the middle of the journey on the highway.

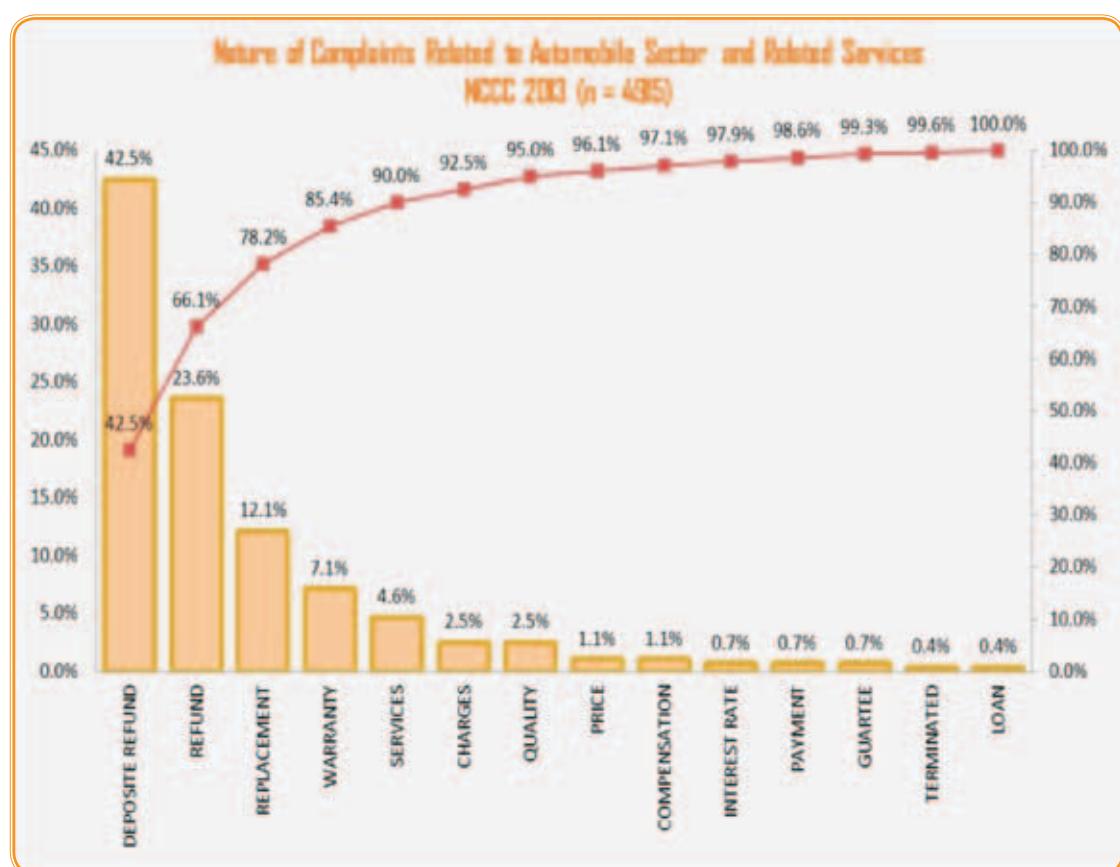
Grey areas in the Road Transport Act 1987 and the jurisdiction of various regulatory agencies are not helpful to improve vehicle safety specification and improving safety of drivers and road users. There needs to be a single competent authority in ensuring only safe cars

are put on the road and this agency must have jurisdiction over car parts and accessories as well.

## Nature of Complaints Related to Automobile Sector and Related Services

With a staggering 67%, refunds & deposits dominate the nature of complaints under this category, followed by complaints that were lodged in regards to spare part or accessory replacement and warranty.

Complainants feel that their rights as consumers are violated when their booking fees are not returned according to law. In some cases, while companies agree to a refund they just take too long so much so that complainants lose faith in them.





**Figure 2: Various defects on brand new car**

Faulty components are a major complaint regarding cars. It is of grave concern that new cars come with faulty components and defects. When contacted, manufacturers or authorised dealers do not seem to be consumer centric in the sense they do not agree to a replacement and uphold that warranty is there for a reason.

However, in some cases, warranties are limited and do not cover the defected parts .It is at this juncture consumers are lost and left to deal with the problem with no amicable solution. In some cases, repairs take up to months while they aren't provided with a courtesy car, ending up with loss of use as they're servicing their loans.

Another major concern among complainants is in regards to unsolved problems despite sending their vehicles for inspection several times. Unknown problems with regards to cars can lead to a bigger issue such as road accident or safety incidents.

## Consumer Protection Laws Applied to Manage Complaint and Voluntary Initiatives / Tools

### Laws

The **Consumer Protection Act 1999** provides the protection for the consumer when it comes to goods and services. It is an Act of general application which is applicable to any goods or services purchased or subscribed by consumers.

- **Section 32** provides that there will be an implied guarantee by the supplier to the consumer as to the safety, acceptable in appearance, fit for its purpose, free from defects and durability of the goods.
- **Section 34** provides that goods supplied to the consumer shall comply with the description.
- **Section 37** provides that there will be implied guarantee by the supplier and manufacturer to ensure the availability of the facilities and spare part for repair.

- **Section 42** provides that the supplier may remedy the breach of guarantee by repair the defects; replace with identical unit; or refund of money.
- **Section 46** provides that where consumer has the right to reject the goods, the consumer may choose to have a refund of money or other consideration provided by the consumer in respect of the rejected goods; or goods of the same type and of similar value to replace the rejected goods.
- **Section 48** provides that the supplier shall be bound by the representation made by the dealer on its behalf. Consumer is not prevented from the right of redress though the representation is not made by the supplier.
- **Section 52** provides that the consumer shall have the right of redress against the manufacturer by way of repairing the goods or replacing the goods with identical type. Damages are only available if the manufacturer failed to remedy the breach within reasonable time.
- **Section 53** provides that there shall be implied guarantee that services supplied to consumer shall be supplied with reasonable care and skill.

Apart from CPA, there is other Act which can be used to protect consumer interest. **Section 15 of the Sale of Goods Act 1957** provides that where there is a contract for the sale of goods by description there is an implied condition that the goods shall correspond with the description. Whereas **Section 16** provides that where goods are bought by description from a seller who deals in goods of that description (whether he is the manufacturer or producer or not) there is an implied condition that the goods shall be of merchantable quality:

## Recommendations for Improvement

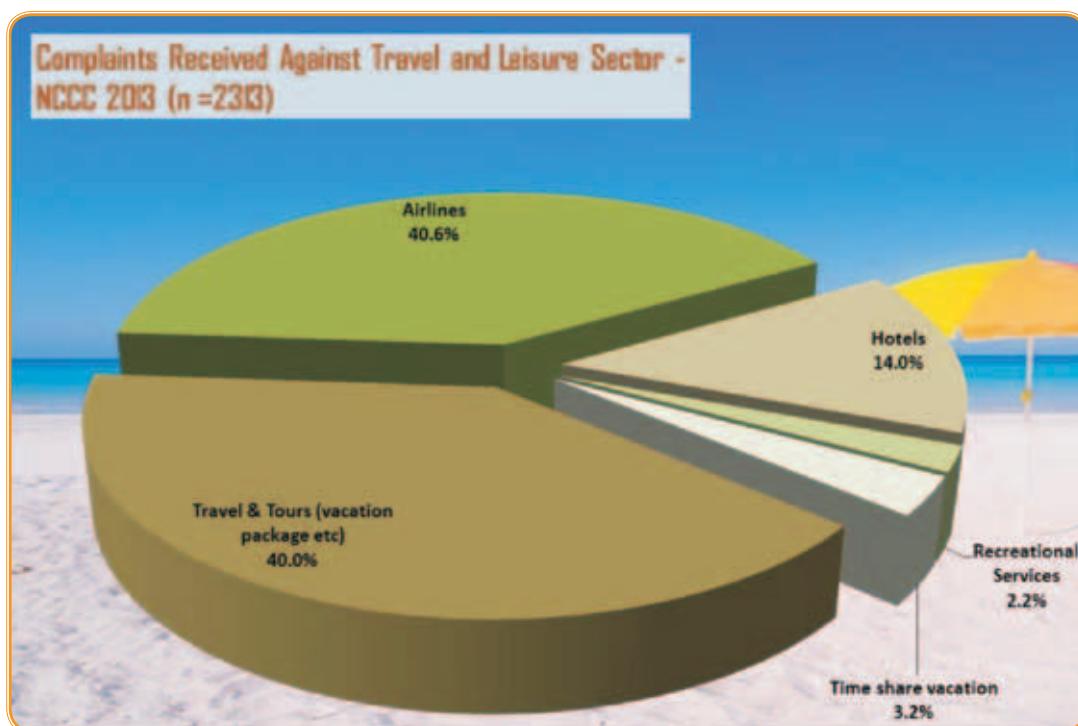
1. Local car manufacturers are advised to play an even more active role in handling complaints received against them. The number of complaints received against local car has been increasing annually. Some of the complaints were settled amicably while the remaining did not receive adequate attention.
2. Cars that are manufactured and sold to the consumer should go through a thorough check with regards to its quality and durability more so for new cars.
3. Service Centres must improve their efficiency in repairing or servicing the cars sent to them. Unreasonable delay in delivery to the car owners should be avoided at any cost as it causes hardship (loss of use).
4. Technicians and mechanics should be equipped with the necessary skills, knowledge and expertise that will enable them to identify the root of the problem in relation to faulty and problematic cars.
5. Manufacturers and suppliers should strictly adhere to description and specification requested by the consumers and the failure to be able to comply with such should be duly advised to the consumer as soon as practicable. Any change in the specification should only be carried out with the express consent of their customers.
6. Notwithstanding the **Consumer Protection Act 1999** mentions that services must be completed within a reasonable period of time, the word '**reasonable**' itself is hard to define as it is ambiguous. A clearer definition would be great.
7. See also recommendations for Auto Lemon Law in vehicle service section.

## A Dash of Auto “Lemon”

The National Consumer Complaints Centre (NCCC) has met up with a few officials on the implementation of the “lemon law” across the board. NCCC has stressed that the automobile industry is in a dire need of a “lemon law” as there exist no regulatory body or redress avenue for consumers pertaining automobile complaints.

NCCC shall continue to push for the implementation of such, be it an Act itself or something that works alongside all existing laws concerning consumers.

# 05 Complaints Related to Tourism & Airline Industry



The chart above depicts the complaints recorded by the National Consumer Complaints Centre (NCCC) with regards to tourism & airlines industry. It is rather clear from the charts that a high volume of complaints were equally shared both by tour agencies and by airlines service providers.

2013 witnessed a slight increase in the number of complaints for this sector with a total of 2313 number of complaints recorded as opposed to last year's total of 2034 complaints.

Complaints lodged against airlines services were the highest with 40.6% followed closely by complaints with regards to travel & tour agencies with 40%.

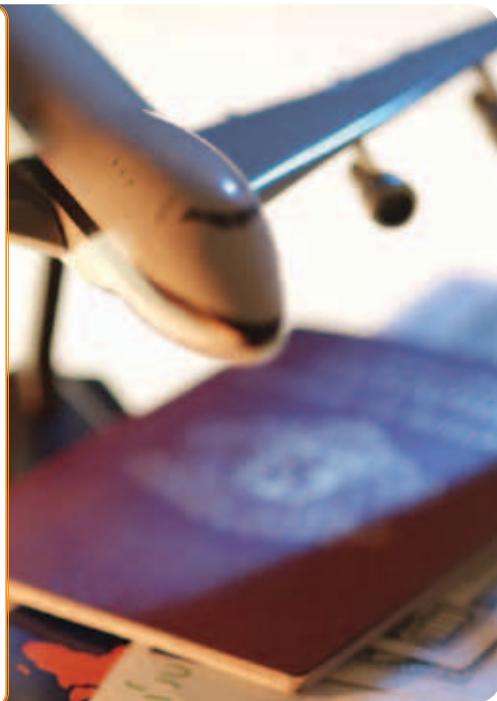
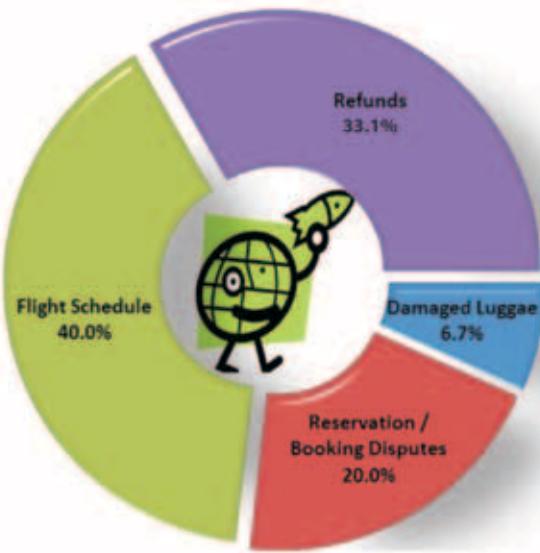
Other type of significant complaints were pertaining to hotel services, making up 14% of the total complaints for this sector.

## Nature of Complaints Related to Airlines

One low-cost airline / carrier has been constantly appearing in our complaints system. The NCCC has on numerous occasions requested this entity to have a meeting to further discuss all complaints they receive. However, our efforts have been thus far fruitless to get them to speak to us.

At least 938 complaints of the total complaints for this sector were lodged against airlines. Out

## Nature of Complaints Against Airlines - NCCC 2013 (n = 938)



of all these complaints, those lodged against re-scheduling of flights topped the charts with 40%. Basically, complainants were left fuming when their flights were re-scheduled at the very last minute. This then leads to other monetary losses as they might have to book another flight altogether to get to their destination and while this takes place, it is the airlines policy to only provide their customers with another date and time to fly.

Due to this, refunds are almost impossible with only airport tax returned. Complaints with refunds contributed to 33.1% of the total complaints for airlines. The complaints analysis indicates that airlines are very stringent with their refund policies notwithstanding that the cancellation or rescheduling of flights comes from their end and not bothered about the kind of monetary loss suffered by their customers due to such cancellation and re-scheduling.

Disputes arising due to the reservations and bookings came in 3rd highest, with the NCCC recording 20% of the total complaints under the airlines category. Complainants are often

dissatisfied when their reservation and booking process had caused them some sort of monetary loss or when they receive information that is somewhat misleading prior to the booking / reservation.

Damaged luggage's contributed to 6.7% of the total complaints.

## Nature of Complaints Against Travel & Tour Agencies

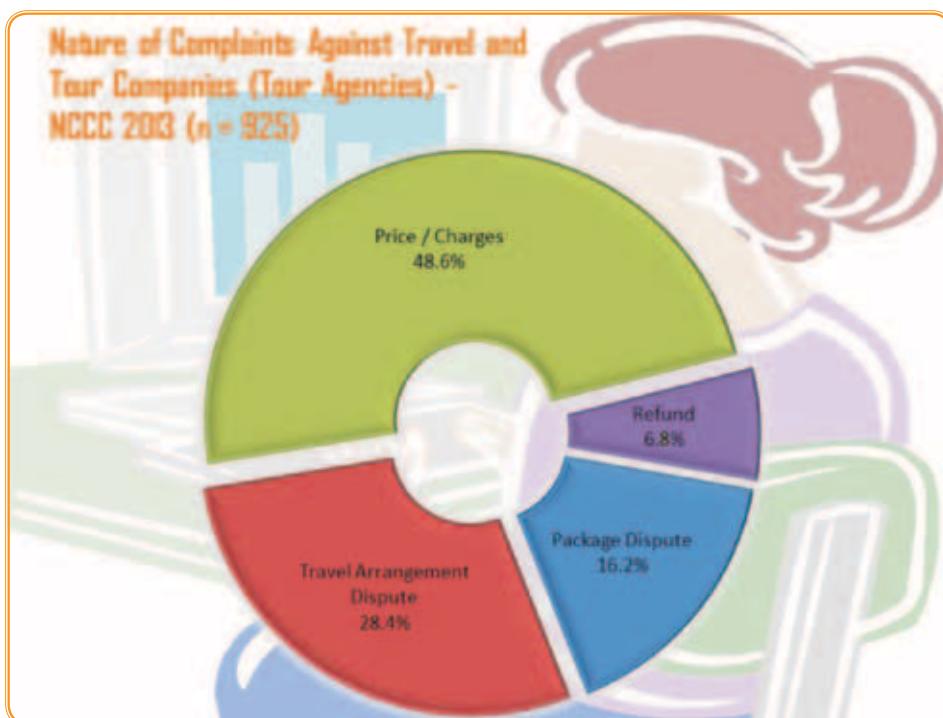
Complaints with regards to price and charges recorded the highest for this category, making up at least 48.6% of the total complaints. Complainants feel cheated when they are required to top up cash upon arriving at a certain destination, an arrangement that was not made clear or revealed to them prior to the tour booking. This typically happens when a certain hotel is non-existent or is packed, requiring the complainant to book another hotel altogether.

Travel arrangement disputes / complaints come in second highest for this category. The type of



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complaints that fall under this category are those lodged by complainants who feel cheated when their touring arrangement differs vastly from what was promised to them.

Other complaints under this category highlighted refund disputes due to the cancellation of tour packages. Some of the complainants decide to cancel their tour upon learning from others bad experience but however such requests were rarely entertained and thus they seek redress by requesting for the NCCC's assistance.

## Consumer Protection Laws Applied to Manage Complaints

### Laws

A number of laws are applied in relation to handle complaints under this service sector. Some of which are **Contract Law**, **Companies Law**, **Tourism Industry Act**, **Trade Description Act** and the laws from **Consumer Protection Act 1999**.

### Unethical Practices / Misrepresentation

There exist a string of unethical practises some of which are hidden charges and the quality in way in which services are rendered. These types of complaints arise due to malpractices by tour agencies and misrepresentations to consumers at large. **Part 2 of the Consumer Protection Act** spells out that no person shall make false representation in relation to characteristics of products or services with the intention to misrepresent consumers.

**Section 18 (A to C) of the Contracts Act 1950** renders misrepresentation a breach of duty owed while having the intention to induce a party into entering a contract. Agreements arising from such situation are deemed to be void.

Services that are not rendered and not in compliance in a way it was advertised to the general consumers at large will be caught under **Section 13 of the Consumer Protection Act 1999** which stipulates 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.

## Facility Condition

No specific laws have been drafted till date to deal with facility condition. **Section 18 of the Contracts Act 1950** may be invoked when service providers fail to render services as per advertised. Additionally, reference may also be made to **Section 7A (a) & (b) of the Trade Descriptions Act** and the **Malaysian Code Advertising Practices**.

Additionally, there is a duty of care owed to consumers at large by service providers. The

vicinity in which services are provided has to adhere to safety standards that are of acceptable standards for the purpose the services are rendered. In the event of an unforeseen mishap due to the condition of the premises in which the services are rendered, then the service providers may be held liable under the occupier's liability principle.

## Termination of Contract / Refund

**Section 57 and 58 of the Consumer Protection Act 1999** provides that aggrieved consumers have a right to redress against suppliers or manufacturers. Alternatively, consumers may also seek for a refund in the event they wish to reject a service not in compliance with its implied guarantee.



## Voluntary Initiatives / Tools

The qualities of hotels are amongst the concerns raised by complainants. The Department of Standards Malaysia or STANDARDS MALAYSIA has developed standards which may assist it classification of hotels and other type of accommodation. Some of these mentioned standards are:

- MS 2446:2012 Accommodation Premise- Classification- Criteria and Requirement for Hotels
- MS 2447: 2012 Accommodation Premise – Classification – Criteria and Requirement for Hotel Apartments

Having said the above, there are however no voluntary initiatives concerning travel and tour agencies / operators. Management systems standards such as the ISO 9001 may however help improve the quality of service rendered to consumers at large notwithstanding they are only minimum requirements.

## Recommendations for Improvement

The Ministry of Domestic Trade, Cooperatives and Consumerism together with the Ministry of Tourism and Culture Malaysia should as a joint initiative draft specific binding laws on the provision of goods and services under the Travel and Tourism industry.

These laws should cover all types of service and goods related to the tourism industry in Malaysia.

Additionally, the Ministry of Tourism should also as part of their efforts in protecting the consumers at large provide certification for companies who have their intention to start up a tour agency. This certification should only be provided to those who have acceptable understanding of the industry once having

undergone thorough interview and perhaps even an examination.

Also, both these above mentioned Ministries should work with the National Consumer Complaints Centre (NCCC). This will enable these ministries to keep abreast with the latest types of complaints received in this sector.

Airline regulating bodies should also apply international standards when concerning refund policies and acceptable quality of customer service. To ensure airlines do not conduct business in an unfair manner given some airlines are in a position of monopoly, relevant regulating bodies should impose stringent laws and policies with regards to hidden charges. Hidden charges are deemed to be misrepresentation of price attached to a specific goods or services and are thus a violation of consumer protection law.

The Malaysian Competition Commission as a regulating body set up by the Malaysian Competition Act 2010, should ensure that company possessing economic power and who are in a position of monopoly are dealt with strictly. They should go the extra mile to curb anti-competitive behaviour to maximise consumer protection especially in the local airline industry.

## 06 Complaints Related to Wellness and Aesthetics

Aesthetic Services / Centre i.e. hair, skin and beauty treatment topped the chart with 45.4% out of the 2013 complaints. Advertisements and promises made by the Centres manage to attract more consumers to use their services although at the end of the day consumers find that they have wasted money on services that brought no difference to them.

Complaints on weight loss centres comprised of 26.1% whereas 23% were related to gymnasium and yoga centre. Consumers lamented that they were cheated by the package offered by the weight loss centres. In some instances, they were persuaded to buy a product available to help them losing their weight. As for the fitness centre, the focus is more on the terms of the contract entered into by the consumers.

5.6% of the total complaints were on Spa services.

Comparing the number of complaints and value in dispute for this year and the previous year, it is clear that there is increase in terms of both, the number of complaint, that went up from 1839 in 2012 to 2013 and the amount in dispute increased from RM1,159,082 to RM1,671,350.

### The Nature of Complaints

Most of the complaints were made in relation to contract and deposit / refund. 46.5% of the complaints are attributed to consumers not being allowed to cancel the package that they had yet to undergo. Even when the centre agreed to refund, administration fees were



deducted as proclaimed by the centres. Some of the centres argued that non-refundable policy is one of their company policies which is a clear contravention of the Consumer protection Act 1999 in regards to future services.

Among the common complaints of consumers were the way these centres made them sign-up to the contract. The methods used appear to be a common pattern within the industry. The centres will usually bait the consumers by offering "free-trial" before they were induced into signing the contract. In some cases, consumers were asked to pay for the service that were advertised as "free-trial" and this fact was only made known to consumers after they had undergone the trial session. This scenario is so rampant whereby complaints on rogue marketing / scam constitute 23% from the overall complaints regardless of type of services offered to consumers at large.

Issue on services performance formed 21.1% whereby services rendered failed to meet the satisfaction and expectations of consumers. Consumers hardly lose their weight nor did their skin witnessed improvement as promised.

Another problem with aesthetic care is that in some instances, the procedures undergone by complainant result in health complications such as skin irritation, rashes, uneven skin tone, and deteriorating health condition. The issue on safety made up 9.3% of the complaints, nevertheless it must be given serious attention and proactive action must be taken immediately to ensure that consumers obtain safe and worthy services.

## Consumer Protection Laws Applied to Manage Complaints Received

### 1) Laws

Recourse to Consumer Protection Act 1999 can be made in order to safeguard and enforce consumer rights against the industry.

- **Section 6** provides that the Act shall have effect notwithstanding anything contrary in the agreement.
- **Section 19** states that every service provided for in the market should be subjected to some safety standards as per set by the Ministry.
- **Section 19** provides that all goods provided for in the market are subject to minimum standards of safety requirements.
- **Section 17** states that a consumer who cancels a future services contract may be charged in 3 methods — (i) 5% from the full contract price; (ii) the cost of any goods the consumer used or is keeping; or (iii) the portion of the full contract of price representing services received by the consumer.
- **Section 17(5)** states that a person is entitled by law to cancel a contract either via documentation or verbally so long it is communication to the other party. Should wellness centres demand for full payment upon cancellation of a contract (for those

who have paid in full), the consumer is entitled to claim for the remaining balance. This has to be **carried out within 14 days** of the contract cancellation.

- **Section 13** stipulates that no one person may advertise for the purposes of supplying a product or service with a stipulated price without the intention of providing the services. Similarly, the **Trade Description Act 1972** states that sellers or traders of goods and services shall not take unfair advantage of consumers as it is an offence under this Act to do so.
- **Section 10** provides for the rights of consumers against misrepresentation or false statement made in inducing one person into entering a contract



## Recommendations for Improvement

- The Ministry of Domestic Trade, Cooperatives and Consumer Affairs together with the Ministry of Health should ensure strict regulation and compliance.
- By having regulatory bodies, this will ensure new laws are drafted from a time to time basis to further protect the consumers.
- There must be a constant checking on

conduct quality and safety to ensure providers are in compliance with the minimum standards set for best business practises.

- The Ministry of Health should take lead in monitoring the industry and at the same time move forward by issuing a proper licence to the qualified practitioner. Such licence will be a security and guarantee on the expertise of the practitioner.
- There is a need for new laws to be drafted to specifically deal with wellness and beauty centre and regulate the professionals working in these centres. Additionally, the **Medical Act** should witness amendments that will deal with medical negligence and aesthetic procedures carried out at large.
- Those found guilty of violating any laws with regards to wellness and aesthetic should have their licence revoked thereby not allowing them to operate any further.

# 07 Complaints Related to Housing & Real-Estate Sector

Tenancy agreement complaints including lease and rental (29.2%), recorded the highest number of complaints in this category. These complaints are made due to the fact that landlords in some cases do not return deposits although the tenants have complied with the necessary. Another issue is when tenants are not given sufficient time to vacate a certain premise they are renting in.

Construction and renovation works recorded second highest complaints with a total of 27.9% out of all complaints under this category. Delays in completion and poor workmanship were identified to pose major concerns amongst the complainants. Certain developers seem not competent enough to handle the developing of properties but were still given the approval to carry out development projects.

Further analysis of the complaints showed that complaints were mostly due to poor quality of renovation work, types of material used, delay in works, and overcharging. This is mainly in the renovation services.

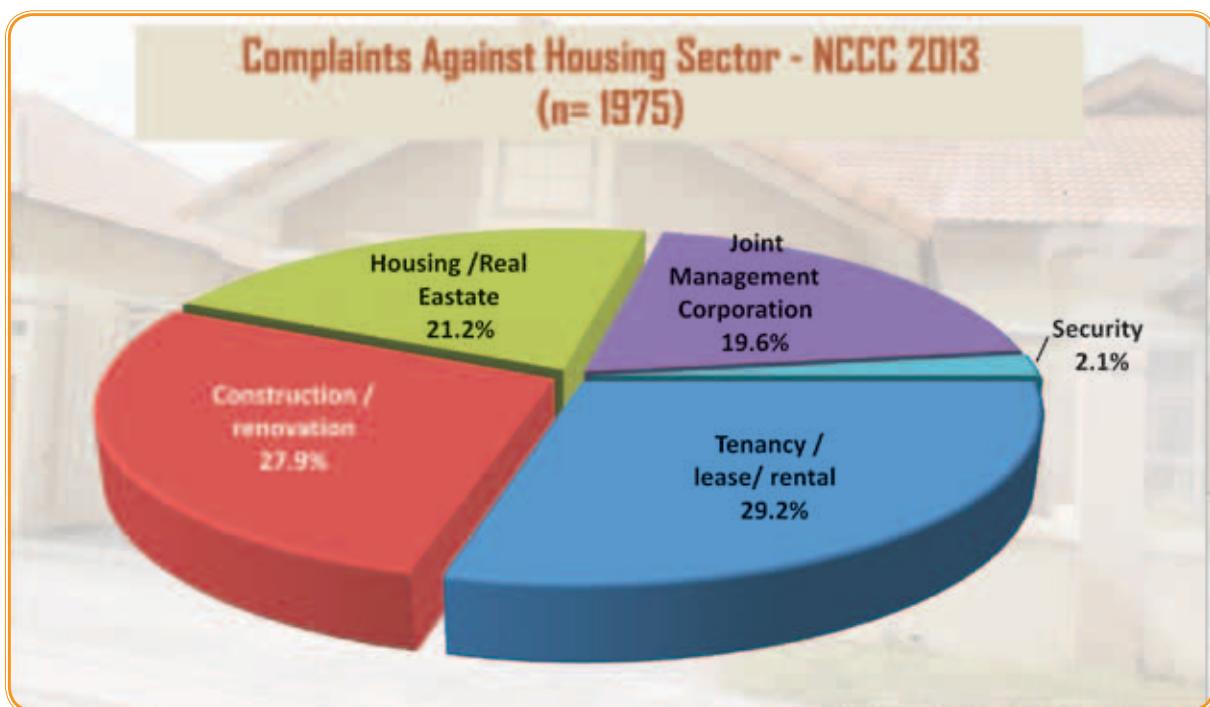
Complaints with regards to developers and estate agents came in third this year, contributing 21.2% out of the total complaints under this category. Some of the types of complaints recorded were late delivery of the property, major defects (brand new property), the delay in dealing with defects by the developers, warranty that is deemed useless as the developers claim that some defects aren't covered by the warranty provided.

When it comes to estate agents, a high volume



of the complaints dealt with refund issues. Complainants were upset when estate agents do not return the earnest deposit of up to 3% when their loan application is not approved. The standard booking fee form provided are biased and very prejudiced towards the consumers, causing them to lose their earnest deposit in the event their loan is not approved or due to personal reasons they chose not to proceed with the sale of the property.

Complaints with regards to Joint Management Body / Corporation witnessed an increase this year contributing to 17.6% of the total complaints received by the NCCC in this sector. Problems and issues raised here were in connection to the poor management and maintenance of properties. Additionally there were also complaints made about utility billing discrepancies by the Joint Management Body / Corporation.



Some complainants have lamented on the refusal of the JMB / MC to practise transparency in allowing them to view the sinking fund. Car park allocations and exorbitant charges for such facility were also identified in the NCCC's complaints trend. Other complaints were related to the lack of maintenance activity and shoddy facility managing.

2.1% of the total complaints were made due to security provision issues despite the complainants paying a monthly fee for security services provided by their residential association.

## Consumer Protection Laws Applied in Managing Complaints

### Laws

**Section 24(2)(d) and (f) of the Housing And Development (Control And Licensing) Act 1966 (HAD)** stipulates that only the Minister may regulate all types of payments under whatever

name these may be described for the purchaser to make.

Additionally, the Minister prescribes or names the fee to be collected from the purchaser as stated in **Schedule G, H, I and J** of the same **Act**. As such, the law clearly states that the deposit is to be deemed as first payment by the purchaser.

However, deposits by purchasers are to be recognized as valid and binding by the Sales and Purchase Agreement. Should a purchaser fail to obtain a loan within a time stipulated in the Sales and Purchase Agreement, then he / she will be liable to a 1% penalty of the total purchase price of the property payable to the vendor. The balance of the deposit however, must be refunded to the purchaser. Although such is the case, some vendors refuse to abide by the law when they do not refund the purchaser with the balance of deposit.

Generally, vacant possession of a property is within the time period stipulated in the agreement between the developer and purchaser. However, under Regulations 22(1)

Schedule G and Regulations 25(1) Schedule H of the HAD, it is a must for the developer to make available vacant possession to the purchaser within a time period of 24 months when it comes to landed property. Failure of such would require the developer to compensate the purchaser in terms of liquidated damages.

## Laws Regarding the Quality of Construction

All purchasers are entitled to the purchase of property which is of acceptable quality and this can be derived from the Sales and Purchase Agreement (SPA) (Schedule G and H of the HD Regulations 1989)

Should a purchaser feel that the quality of the property he / she had purchased is not in compliance to the quality stipulated in the SPA then, he / she may make a claim for damages.

The two types of remedies available to buyers in such instances are:

- *Remedies arising from the breach of a contract*
- *Statutory Remedies afforded to the purchaser from the warranty made available to the purchaser*

Under the Statutory Remedies made available to purchasers, they possess the right to make claims within 24 months of being handed over the vacant possession.

## Joint Management Body

Joint management body is regulated by Building and Common Property (Maintenance and Management) Act 2007.

**S 8 of the Building and Common Property (Maintenance and Management) Act 2007** states the powers and duties of joint management body as follows:

- (1) The duties of the Body include the following:**

- (a) To properly maintain the common property and keep it in a state of good and serviceable repair;
- (b) To determine and impose charges that are necessary for the repair and proper maintenance of the common property;
- (c) To insure and keep insured the building to the replacement value of the building against fire and such other risks as may be determined by the Body;
- (d) To apply insurance moneys received by the Body in respect of damage to the building for the rebuilding and reinstatement of that building;
- (e) To comply with any notices or orders given or made by the local authority or any competent public authority requiring the abatement of any nuisance on the common property, or ordering repairs or other work to be done in respect of the common property or other improvements to the property;
- (f) To prepare and maintain a register of all purchasers of the building;
- (g) To ensure that the Building Maintenance Fund is audited and to provide audited financial statements for the information to the purchasers;
- (h) To enforce house rules for the proper maintenance and management of the building; and

To do such other things as may be expedient or necessary for the proper maintenance and management of the building

- (2) The powers of the Body shall include the following:**

- (a) To collect from purchasers maintenance and management charges in proportion

- to the allocated share units of their respective parcels;
- (b) To authorize expenditure for the carrying out of the maintenance and management of the common property;
- (c) To recover from any purchaser any sum expended by the Body in respect of that parcel in complying with any such notices or orders as are referred to under paragraph (1)(e);
- (d) To purchase, hire or otherwise acquire movable or immovable property for use by the purchasers in connection with their enjoyment of the common property;
- (e) To arrange and secure the services of any person or agent to undertake the maintenance and management of the common property of the building;
- (f) To make house rules for the proper maintenance and management of the building; and
- (g) To do all things reasonably necessary for the performance of its duties under this Act.

## Recommendations for Improvement

The level of protection afforded to property purchasers at large in Malaysia is comparatively very low. Being lay people, most purchasers are quick to jump the gun when signing an SPA, negligently not reading the terms and conditions stipulated in the SPA.

It is thus recommended that prior to the purchase of a property; all purchasers hire a lawyer or someone with the ability to examine the SPA in ensuring the purchasers right is at all times guarded and to understand in depth what the purchaser is signing up for.

Most standard SPA's do not afford purchasers the necessary protection in the event a dispute

arises due to deposits, the usage of sub-standard quality goods for construction and many other issues that may be unforeseen.

As such, purchasers should get the advice of a lawyer prior to signing the SPA to afford them the necessary protection in the event a dispute arises.

Additionally, the Ministry of Housing and Local Government (MHLG) and Construction Industry Development Board (CIBD) should regulate strictly to improve protection afforded to purchasers.

With the skyrocketing prices of properties, these bodies must include as part of their initiative to ensure quality construction. This is important as most developers in the present day are seen to utilize substandard materials despite charging a high price for properties.

The Ministry of Housing and Local Government should be strict to ensure all methods developers adopt in receiving payments, fees and monies should not be biased towards them and additionally must result in a fair and just outcome for purchasers.

Before the certification of occupancy is approved, the relevant bodies and authorities should perform quality check on the property to ensure that the materials used are of acceptable standards and safe for dwellers.

The government should work closely with consumer organisations namely with those championing house buyers rights such as the HBA (House Buyers' Association) and NCCC in ensuring all complaints are dealt with effectively, promptly and without bias.

The role of Housing Claim Tribunal for redress purposes should also be made known to the general public. Homebuyers having problems can seek the help of the Tribunal provided they meet certain conditions and their problems are within the jurisdiction



## What consumers ought to know about refunds and deposits amidst a dispute?

Consumers at large are usually urged to pay up to 3% of the property price as a booking fee before they apply for a loan. The norm is that they will sign a booking fee form. In this said form, there exists a clause, highly prejudicial towards the purchasers as it clearly stipulates that in the event their loan is not approved and the Sales and Purchase Agreement (S&P) is not signed within fourteen (14) days from the day the booking fee form was signed, the vendor thereby reserves the right to forfeit the earnest deposit.

Most complainants aren't aware of this and some are even misled when they verbally agree with agents or developers that their deposit will be returned in the event their loan gets rejected or for some reason they do not wish to proceed with the sale. However, as nothing is written and agreed upon in black and white, these agents or developers go back on their words and it is at this juncture complainants feel that their rights as a consumer have been violated.

To avoid the abovementioned, consumers at large are urged to be prudent by getting a

confirmation by agents, vendors or developers clearly stipulating that all booking fees or deposits will be returned to the purchaser in the event a loan application is rejected and the S&P agreement is not signed within fourteen days.

In some cases, it takes more than 14 days to get a loan approved and as such, agents, vendors and developers should not capitalize on consumer's vulnerability by being unscrupulous. Some of the complainants have saved up for years to have available cash to be paid as deposits or booking fees and this sort of practise by agents, vendors and developers is highly frowned upon.

## What you should do in the event your deposit is forfeited?

In the event your earnest deposit is forfeited by agents, vendors or developers, the first thing you should do is write to them, seeking a full refund.

Should they not agree to return the earnest deposits of booking fee and the property in issue is a first-hand sale, proceed to make a complaint with the House Buyers Tribunal under the Jabatan Perumahan Negara (JPN) seeking for a full refund.

Should one encounter dispute with developers due to build material i.e. quality and etc, they may also seek redress from the House Buyers Tribunal.

Details of the House Buyers Tribunal can be found at: [http://www.kpkt.gov.my/kpkt\\_bi\\_2013/index.php/pages/view/370](http://www.kpkt.gov.my/kpkt_bi_2013/index.php/pages/view/370)

***Kindly take note that the House Buyer's Tribunal only hear cases pertaining to first hand property and do not cover disputes arising over a sub-sale, from a real estate agent or a middle person selling the house.***

## In cases of a Sub-Sale

Where you are refused your earnest deposit or booking fee in the event your loan application has been rejected by the agent or vendor, proceed to hire a lawyer to place a caveat on the property in issue.

This will help prolong the sales of the property in issue, and in this time, make it clear that you will only remove the caveat should you be refunded in full of your earnest deposits or booking fee.

To understand more on the sales and purchase of a property, please feel free to contact the House Buyers Association to seek clarification.

They can be viewed online and contacted at:  
[http://www.hba.org.my/about\\_us/contact.htm](http://www.hba.org.my/about_us/contact.htm).

## 08 Complaints Related to Banking / Financial Sector

2013 witnessed a reduction in the number of complaints made against banks and financial institutions, with NCCC recording only a total of 1625 complaints. Last year, the NCCC recorded at least 5,555 complaints, making up 13.2% of the total complaints. For 2013, the banking sector made up only 3.9% out of the total complaints received by NCCC.

Collectively, all complaints under this category totalled to RM3,214,435.80 as opposed to last year's total of RM5,433,425.14.

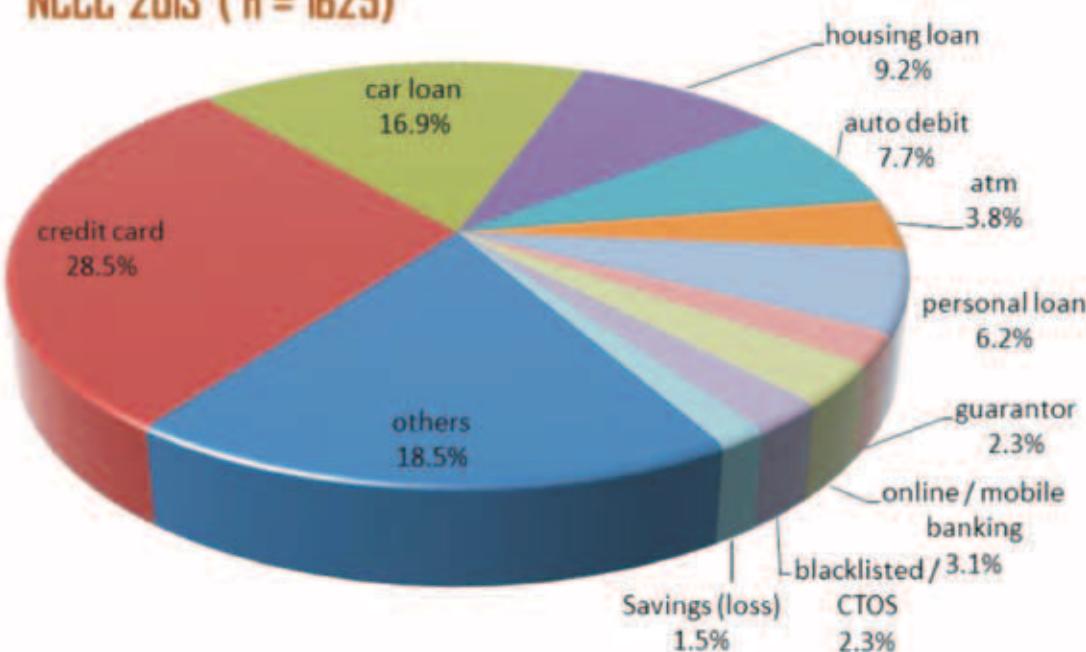
The notable decrease in both the number of complaints and the value attached to them under this category could be due to the fact that consumers may have lost faith that banks were serious in addressing their complaints. Perhaps, the aggrieved consumers feel that it may be futile to channel their complaint to solve their issues. Banks have been extremely stringent with their code of conduct and very rarely practice discretion, much to the frustration of us, the NCCC and not to forget the consumers at large. Additionally, it has been evident that banks in actual fact capitalize on the weakness of the financially burdened as opposed to being consumer sensitive. In some cases, a simple step of providing leeway to consumers by rescheduling their loan repayment would have eased the consumers' burden. However, most do not practise such discretion when they can and this at times lead to houses being auctioned off, people being blacklisted or even declared bankrupt.



### Type of Complaints Made in Relation Banking / Financial Sector

The highest numbers of complaints under this category were made with regards to credit cards. The usual type of complaints concerning credit cards were stolen cards that were used even after reports have been made, bundle in products (having to accept a credit card that comes with an application of loan with no option of rejecting them) and the issuance of a credit card under an individual's name

## Type of Complaints Related to Banking Sector - NCCC 2013 (n = 1625)



without them applying for such. In some cases, complaints were recorded where consumers credit cards were fraudulently misused to make withdrawals without the owner's consent. Complaints of this sort are usually channelled to the Financial Mediation Bureau (FMB) and the outcome is more often than not unfavourable to the consumers, leaving them to pay for the deliberate and intentional fault of others.

The second highest are complaints made pertaining to car loans. The usual types of complaints are repossession of cars without proper documentation and with the use of force from third party (using strong arm tactics to instil fear in those who have fallen short in servicing their loans). Victims are usually women as they tend to succumb under pressure. When payments are finally made, they find their cars in a bad shape leaving them to repair all damages caused by those who repossessed the car. It is evident that the cars that have been repossessed are often used by third parties, which is clearly illegal. Even after having made police reports,

no further action from the authorities were witnessed. In some cases, cars have also gone missing while in the possession of those who repossess and when this was highlighted, no action was taken.

In some cases where consumers were burdened and requested for a rescheduling of their car loans, such requests were out rightly rejected without due consideration. This results in cars being auctioned off at a very cheap price. To add to the consumers woes, they end up paying a big difference to settle all arrears before obtaining a discharge letter from the banks. In the event they aren't able to cope with the difference, the arrears hit the limit of RM30,000 with the prevailing and impending interest rates for late payment that leads to a creditor's petition for bankruptcy.

Complaints under the "others" category highlighted issues concerning the type of services rendered by banks and financial institutions towards consumers at large. Below par customer

service, rude bank employees, delay in response to inquiries, misleading information, being negligent in accounts management and other service related matters were identified to pose major concerns amongst the complainants.

## Banks with Highest Number of Complaints

Like previous years, local banks still top the complaints charts as they are frequently identified in the complaints study carried out by the NCCC. They seem to blatantly disregard consumer's grievances. On a separate note, they do not even make up for their own shortcomings i.e. where they have negligently caused inconvenience of any sort to consumers when they misplace documents or do not set timely reminders to their customers. This deliberate act of "*tidak apa*" culture seem to be never ending, especially with local banks.

## Consumer Protection Laws Applied in Managing Complaints Received on Banking and Financial Services

### Laws

#### Loans

The old **Banking and Financial Institution Act 1989 (BAFIA)**, which has been now replaced by the **Financial Service Act Malaysia 2013**, shall regulate all banks in Malaysia. This Act provides for the regulations and supervision of financial institutions, payment systems and other relevant entities and the oversight of the money market and foreign exchange market to promote financial stability and for related, consequential or incidental matters.

As all banks in Malaysia are regulated by **Bank Negara Malaysia (BNM)**, they set best practise

guidelines for these banks to follow. This would mean that all banks in Malaysia are not bound by these guidelines but are advised to adhere to such. In other words, banks are free to operate the way in which they desire, so long their practices do not fall too far apart from these guidelines. As such, consumer protection in this sense is rather limited.

Due to such practices, all banks are free to stipulate terms and conditions via a loan agreement with no general practise code. Now this seems to pose a problem as all banks vary in the way they draft agreements for loans of any type. Being the way it is, lay people more often than not are not informed as to the exact meaning of the legal terms contained in loan agreement at large, which may be of a detriment to themselves in the future should a dispute arise from these said terms or clause stipulated in such loan agreements.

In some cases where an employee of a bank has misrepresented to a consumer and when that said misrepresentation was fundamental to the consumer entering into a contractual agreement with the bank, then he or she may seek for damages accordingly via the **Contracts Act Malaysia 1950**. Section 18 of the Act stipulates that, "Misrepresentation" includes-

- a) *the positive assertion, in a manner not warranted by the information of the person making it, of that which is not true, though he believes it to be true;*
- b) *any breach of duty which, without an intent to deceive, gives an advantage to the person committing it, or anyone claiming under him, by misleading another to his prejudice, or to the prejudice of anyone claiming under him; and*
- c) *causing, however innocently, a party to an agreement to make a mistake as to the substance of the thing which is the subject of the agreement*

## Recommendations for Improvement

All banks should make clear to their customers as to the terms and conditions stipulated in agreements of any sort arising between them. Additionally, banks should also advise customers on the implications they may face in the event of default in payments. This will help eliminate the possibility of miscommunication and misunderstanding should a dispute arise.

On a separate note, if a customer defaults in servicing loans of any sort, banks are advised to contact them to inform them on their arrears and the possible outcome from such. However, should the customers inform the banks that they are in financial difficulties; banks are urged to ease their burden as opposed to hiking the interest rates and auctioning off properties.

A meeting should be held with these said customers to propose a repayment scheme to allow the financially burdened a breather. It is only after the banks having exhausted all possible means of amicable settlement, should they resort to an auction or hiking interest rates.

For all that has been mentioned above, **Bank Negara Malaysia (BNM)** should ensure strict compliance to guidelines with the manner all banks handle increase in interest rates and the auctioning off of a property. There is a dire need of a check and balance mechanism to ensure that banks have complied with all the standard operating procedures in a timely and judicious manner before which they are allowed to auction off a property.

Additionally, **BNM** should also work closely with all banks when they receive complaints from the general public at large. At this point, the NCCC records indicate that most of the complaints lodged to **BNM** are not dealt with diligently. The complainants on a very often basis inform us that all that **BNM** does when they receive complaints is to forward it to the respective

banks with an instruction to the banks to reply to the complainants in a timely manner. This results in no amicable settlement and no involvement nor regulation by **BNM**.



## The Role of AKPK under Bank Negara Malaysia

AKPK is an agency set up under Bank Negara Malaysia (BNM) to educate those who are in financial difficulties. Amongst their roles in doing so are financial education, credit counselling and debt management. The relevant bodies should ensure that their role is made known to the Malaysian public at large. All these are made available with no fee involved. For more information kindly visit <http://www.akpk.org.my/>

## The Role of the Financial Mediation Bureau (FMB)

The Financial Mediation Bureau (FMB) is an independent body set up to help settle disputes between consumers and their financial services providers who are its members.



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The FMB provides consumers with free, fast, convenient and efficient avenue to refer their disputes for resolution as an alternative to the courts. These disputes may be Banking / Financial related as well as Insurance and Takaful related. For more information, kindly visit <http://www.fmb.org.my/index.htm>

Additionally, it will also allow for the repeal of archaic guidelines and give way for the NCCC to propose new ones in accordance with the complaints received thereby affording further protection to consumers at large.

## **The Associations of Banks in Malaysia (ABM)**

The Associations of Banks in Malaysia (ABM), is a non-governmental body that champions financial literacy and consumer protection. The ABM lends a hearing ear to consumers amidst a dispute with banks that are registered as a member with the ABM. They facilitate a meeting / mediation between aggrieved consumers and the banks for an amicable settlement. The NCCC has got a good working relationship with the ABM and they have been rather helpful in most instances.

## **The Importance of the National Consumer Complaints Centre (NCCC)**

The National Consumer Complaints Centre (NCCC) receives and resolves complaints across all industry and as such, the same applies to the banking and financial services industry.

As such, all relevant bodies that regulate banks and other financial institutions, receives complaints on banking and financial services are urged to work hands in gloves with the NCCC to study and discuss all complaints trend made in relation to the banking and financial sector. This will further enable the regulating bodies to stringent their guidelines and at some instance demand compliance from banks or financial institution.

## 09 Complaints Related to Utility Services

The NCCC received a total of 1,606 complaints in regards to utility services which amounted to a potential loss of RM697,702. 94. This shows a positive change in the industry due to the fact that the number of complaints has dropped tremendously compared to last year where it recorded a total 5,568 complaints. Services related to utility sector can be seen in the graph below.

Based on the figure below, it is apparent that almost half of the complaint is centred on billing regardless of the service provider. The second highest complaint at 19.6% is on supply disruption.

### Complaints against Electricity Service Operator

Approximately half of the complaints indicate billing issues whereby consumers lamented that the charges in their billing often contain errors. There are cases whereby double charge was credited in the bill other than having different tariff followed for the premises. Residential premises being charged for commercial tariff is not an uncommon problem. This is clear that service providers failed to ensure that billings are correct before it was issued to consumers.

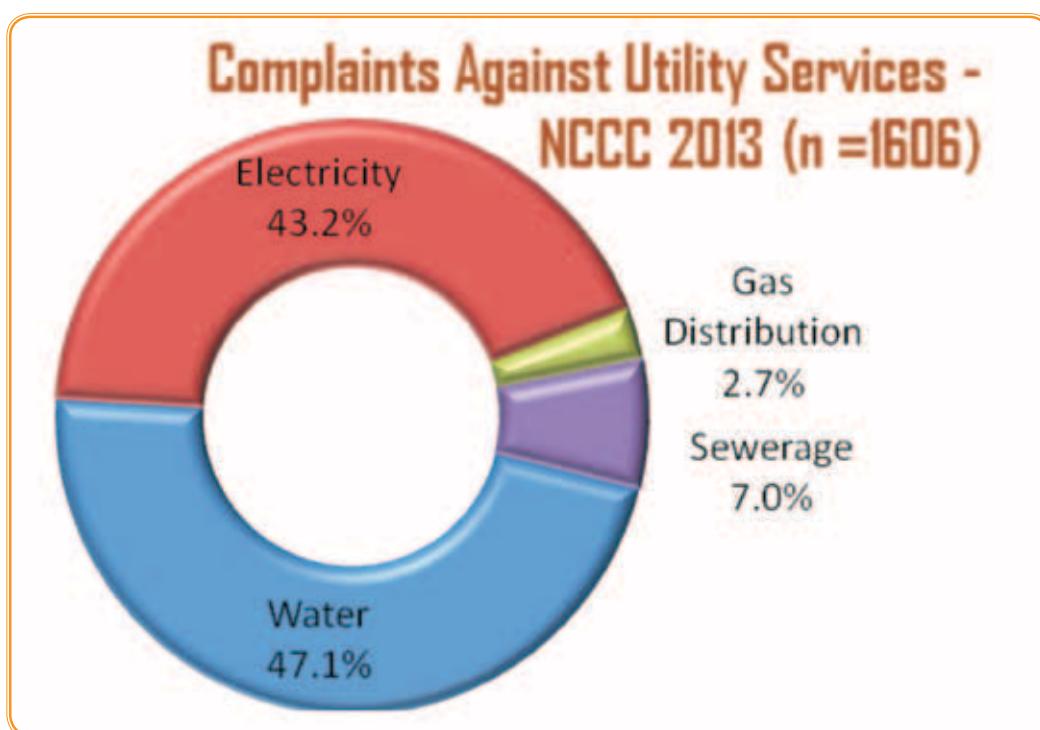
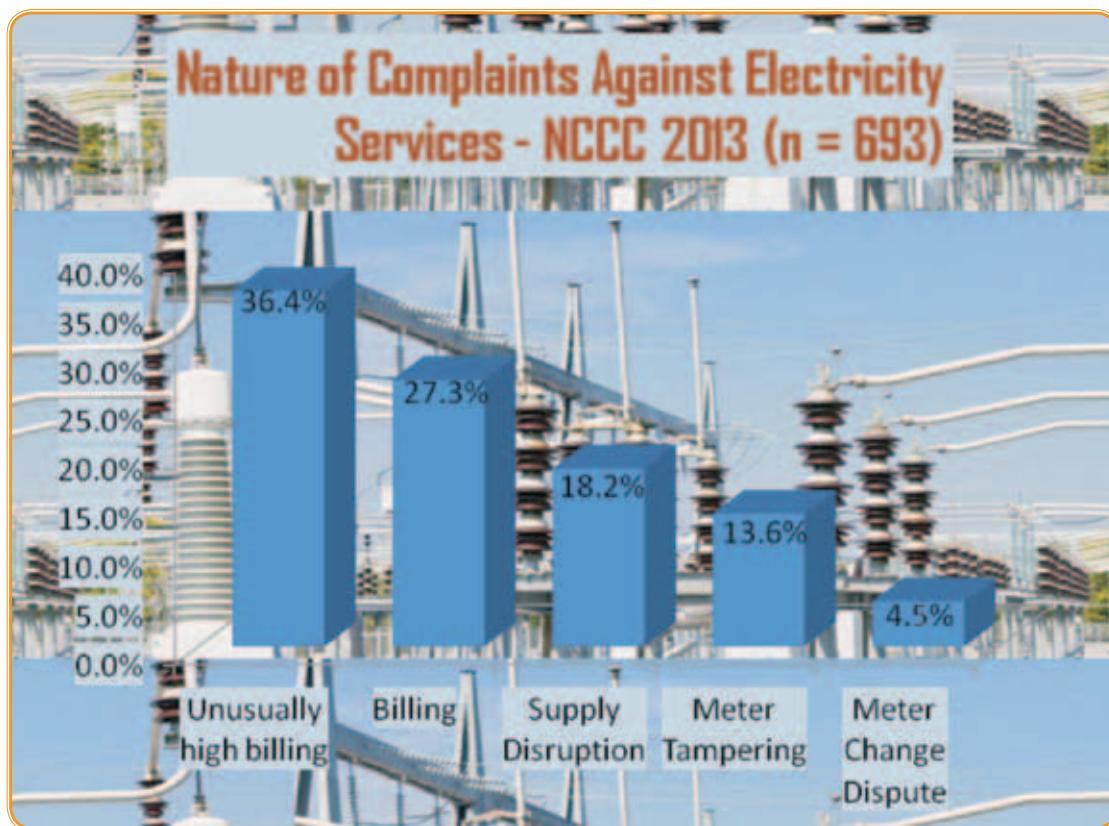


Figure 1: Types of Complaint against Utility Services



**Figure 2: Nature of Complaints against Utility Service Providers**



**Figure 3: Nature of Complaints against Electricity Service Provider**



18.2% of complaints focus on supply disruption and it was not remedied as soon as possible. From the business entrepreneur point of view, constant and long electricity supply disruption can damage their business activity and subsequently incur losses. For the consumers generally, disruption on power supply may also cause hardship for them to conduct their activities at home besides feeling uncomfortable.

Meter tampering problems constitute 13.6% of the total complaints whereas dispute involving changing of meter was up to 4.5%. Consumers argued that their meter should not be changed to a new one because it was still working in order. Changing meter is not favoured by consumers because in most cases, the bill or charge will witness a sudden hike. Upon checking, meters were found to be in working condition but there is also no sign of fault or malfunctions on the old meter.

## Consumer Protection Laws Applied to Manage Complaint

### 1) Laws

The **Electric Supply Act** specifically provides for the rights of the licensee and nothing much on consumer protection. Nevertheless, recourse can still be made to the Act to propose for changes.

- **Section 23A** provides that the Minister may, from time to time, prescribe the standards, specifications, practices and measures to be adopted and any other matters in respect of the efficient use of electricity.
- **Section 24** provides that licensee have the duty to supply electricity to the consumer upon request.
- **Section 30** provides that any party to any dispute regarding a supply of electricity may refer the dispute to the Commission for the decision of the Commission.
- **Section 38** provides that not less than 24 hours' notice must be given to the



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consumer in relation to disconnection of power supply. The disconnection shall not be more than 3 months.

- **Section 32** provides that where a consumer is to be charged for his supply of electricity whether wholly or partly by reference to the quantity of electricity supplied, the supply shall be given through, and the quantity of electricity shall be ascertained by, an appropriate meter
- **Section 37** provides that it is an offence any person who tampers with or adjusts any installation or part thereof or manufactures or imports or sells any equipment so as to cause or to be likely to cause danger to human life or limb or injury to any equipment or other property shall be guilty of an offence and for each such offence shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

Dispute in regards to utility meter can be referred **Weights and Measures Act 1972** which come under the purview KPDKKK. For any contravention of the law on the part of service operators, recourse can be made to the regulator and relevant Ministry.

## Recommendations for Improvement

- A more specific and effective redress mechanism should be provided under the law. Compensation or other relevant remedies must be given to the consumer if the error is not done by them.
- **Section 38** should be amended by changing the 24 hours' notice requirement to a longer period.
- Constant checking on the electricity meter must be done by service providers in order to ensure that meters are working properly
- Employees of service providers should

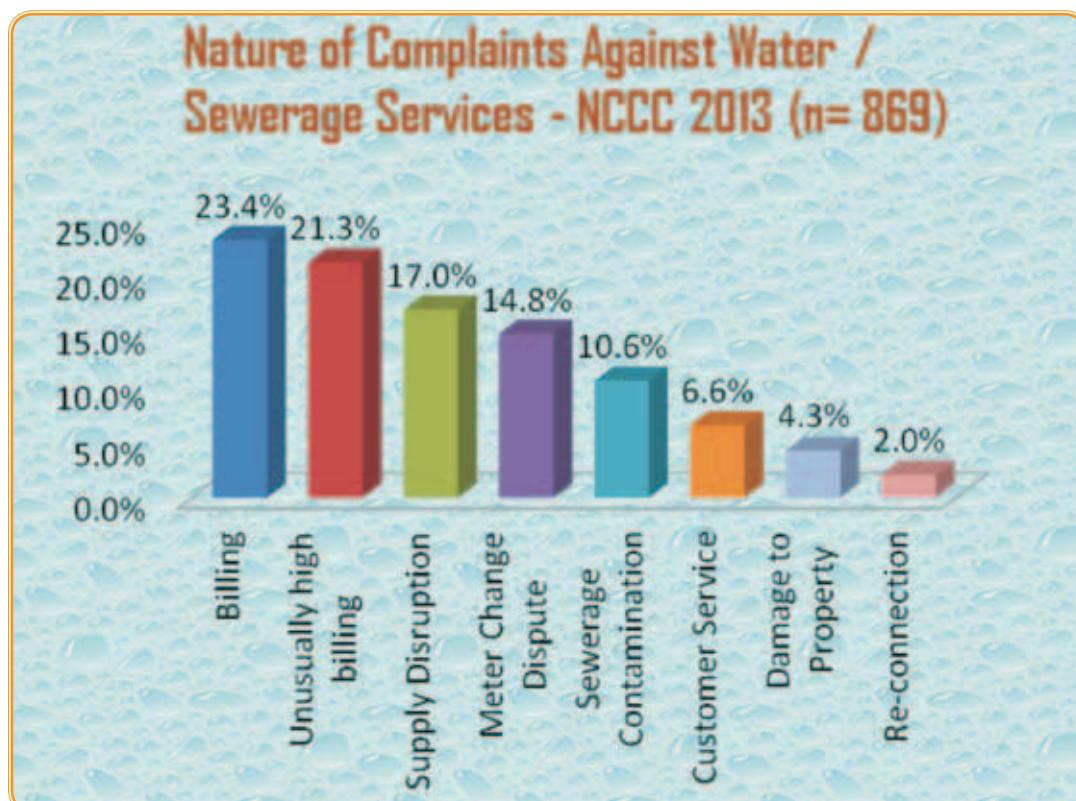
exercise the required duty of care when billing the consumer in order to prevent double charge. Consumer grievances with regards to double charge must not be taken lightly instead it should be remedied as soon as possible by the service providers.

- Consumer should not be forced to make any payment when an investigation is pending with regards to charges.
- The **Electric Supply Act** should contain provisions on consumer protection in order to ensure their rights are protected under the law.

## Complaints against Water Services Operator

The highest complaint on water/sewerage is again on billing issues. Similar with electricity service provider, consumers complained that the bill went up by a few percent and the water service providers were merely saying that they suspected the water might be leaking. Consumers are unable to accept such answers from the service provider especially when there is no concrete evidence to support such suspicion.





**Figure 4: Nature of Complaints against Water Service Providers**

Problem with supply disruption is very common in certain areas such as Wangsa Maju. Despite constant water supply disruption, service provider failed to remedy the issue and consumers have to bear the consequences. The quality and safety of water will usually be affected when there is a disruption of water supply.

The issue with meter change has been persistent over the years whereby consumers argue that their meter was changed based on allegations that it was faulty which is not in all circumstances proven to be true. The graph shows that 14.8% of the complaints recorded are due to meter change disputes and this matter should be given immediate attention by the service provider. The manner of changing the meter was also questioned by the consumers. Most of them said the meter was changed without their presence or at least knowledge.

10.6% of complaints are related to sewerage contamination which caused discomfort to consumers due to strong smell from the sewer. Complaints on customer service are almost similar with other sectors whereby no satisfactory answer or assistance were given to consumers when dealing with their issues.

## Consumer Protection Laws Applied to Manage Complaint

### 1) Laws

The **Water Service Industry Act 2006** contains a number of provisions with regards to the duties of service provider which impliedly provides for the rights of the consumer

- **Section 33** provides that service licensee providing water supply services or sewerage



NCCC

# annual report 2013

- services has a general duty to deal reasonably with consumers; and adequately address consumer complaints
- **Section 34** provides that it shall be the duty of every licensee to maintain at all times the security, integrity and safety of its water supply system and sewerage system and all other assets in relation to the system.
  - **Section 35** provides that it shall be the duty of every facilities licensee to construct, refurbish, improve, upgrade, maintain and repair its water supply system and sewerage system and all other assets in relation to the system that facilities licensee continues to be able to meet its obligations under WSIA 2006 and its subsidiary legislation.
  - **Section 36** provides that it shall be the duty of every service licensee providing water supply services to maintain an efficient and economical water supply system.
  - **Section 40** provides that it shall be the duty of a water distribution licensee to cause the water in its water mains and other pipes used for the water supply; or having a fire hydrant fixed on them to be maintained at such pressure as may be set out by the law. Contravention of this section will render the licensee liable to a fine not exceeding RM1000 on conviction.
  - **Section 41** provides that the water distribution licensee shall ensure that at the time of supply the quality of water supplied complies with the minimum quality standards as prescribed by the Minister. The licensee shall be liable to fine not exceeding RM3000 or to imprisonment not exceeding 3 years or combination thereof.
  - **Section 43** provides that it shall be the duty of every service licensee operating and maintaining a public sewerage system to –
    - a) To manage, operate, maintain, inspect, repair, alter, arch over or otherwise improve the public sewerage system and to treat and dispose the content thereof; and
    - b) To properly desludge the public sewerage system
  - **Section 68** provides that the commission May on its own initiative or upon the recommendation of the Water Forum prepare consumer standards which are able to protect consumer rights and interest.
  - **Section 70** provides that Water Forum was formed to exercise its function as the consumer representative in regards to water and sewerage services.
  - **Section 89** provides that service licensee must give 14 days' notice for the consumer to remedy the default before proceed with disconnection of water supply.
- Apart from the above, **Section 53 of the Consumer Protection Act 1999** provides that where services are supplied to a consumer, there shall be implied a guarantee that the services will be carried out with reasonable care and skill.
- ## Recommendations for Improvement
- **SPAN Act 2007** and **WSIA 2006** should extend their jurisdiction to cover Sabah and Sarawak so that all service providers in Malaysia will be subjected to one unified law.
  - The regulator must review the methodology adopted by the service providers since most of the complaints are related to high charges.
  - Consumer education is still the key to enhance quality of water supply services and sanitation. But currently water operators and sanitation service providers do not invest in such activities and if they do there is very limited reach for the activities carried out.
  - Solution-oriented consumer education such as introduction to the **WSIA 2006** along

with other existing rules, regulations and complaints redress mechanism between both parties will be the main core of the education program. Moreover, introduction of the maintenance on internal piping systems need to be conducted too.

- All call centre personnel should be adequately trained to address consumer complaints effectively and efficiently. ISO 10000 series have been effective in helping all types of organization to improve customer satisfaction.
- The responsibility of maintenance on water meters should be placed under water service provider / licensee as they are the one who can access to the meter. It is unfair to place the responsibility on consumers as technical knowledge is needed in order to gain access to the water meter.
- For sewerage, a proper mechanism must be established in order to facilitate the agreement between the consumers and the concessionaire. Consumer education on their responsibilities and extensive outreach program such as the desludging campaign which is done by SPAN at the moment need to be continued
- All maintenance in regards to water meter, tanks and other related matter must be placed under the responsibility of the service providers since service providers know better about them.
- Service providers must provide periodic Water quality testing or assessment to domestic users and also publish the water treatment plant water quality report to the general public or make it easily available and accessible.

# 10

## Complaints Related to Education Sector

A total of 925 complaints were recorded by the NCCC against the Education Sector in year 2013 which amounted to an approximate loss of RM879,949.62. The complaints against this sector are not only confined to education institutions but covers "education based" products as well i.e. language course through electronic learning material.

Complaints on Private Higher Learning Institutions topped the chart with 36.5% based on the graph. Common grousing are basically on the charges imposed by these institutions whereby actual charges imposed after enrolment differs from what was represented initially. These Institutions are quite reluctant to refund the registration and tuition fees paid by the consumers when they decided to cancel the enrolment.

23% of complaints from the total on education service are related to products such as language enhancement products. The problem with this sector is not about the product sold to consumers but the way consumers were attracted to buy the products as well as the method used by the company to recover the dues. Some complainants inform us that companies sold their products to students without informing them the consequence of non-payment. Parents were made as the guarantor without their knowledge and informed consent. They only came to know about the matter when there is a default and their names were blacklisted by the companies.

Apart from the above complaints, 10.9% were attributed to business continuous learning type of programme such as business workshop.



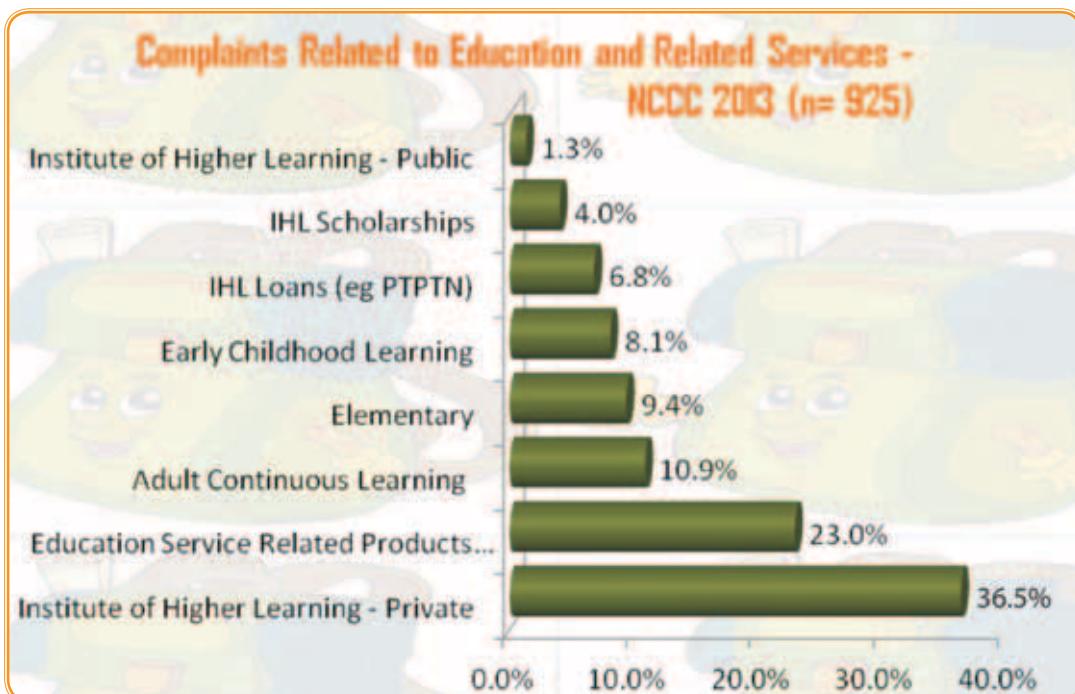
These complaints also involved refund issues which in most cases can be associated with misrepresentation. About 10% of the complaints were recorded on elementary and early childhood learning. The issue involved should be regarded seriously because in some cases the consumers argued that their children were being emotionally abused by the teacher.

### Laws Applied to Manage Complaints Received

#### 1) Law

The institutes of higher education must follow the **Private Higher Educational Institutions Act 1996** as laid down under the Ministry of Higher Education.

- **Section 40** provides that when granting approval for education services, the



**Figure 1: Complaints Related To Education and Related Services**

Registrar General may impose – conditions relating to the requirements for admission of students; such fee as may be prescribed; and any other conditions as he thinks fit.

- **Section 73** provides that if the Registrar General is of the opinion that any statement made in any advertisement in relation to a private higher educational institution is false, deceptive, offensive or misleading the Registrar General may take necessary action to prevent that the misleading information from continuing.
- **Section 75** provides that any person who makes a false or misleading statement in promoting a private higher educational institution shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Reference to **Trade Description Act 2011** may also be made to further strengthen consumer rights.

- **Section 17** provides that no person shall make false statement either knowingly or recklessly or which is known to be able to deceive / mislead the consumers with regards to any matter related to services.
- **Section 18** further provides that no person shall make any false or misleading statement in any advertisement in relation to any goods / services.

The **Consumer Protection Act 1999** was specifically designed to protect the consumers in any matters connected to the purchase of goods and services. Since most of the complaints are related to educational product / services sold / offered to students, thus the CPA is able to help them in protecting their rights.

- **Section 12** provides that a person commits an offence—if he gives to a consumer an indication which is misleading as to the price at which any goods or services are available; or if an indication given by him to a consumer as to the price at which any



goods or services are available becomes misleading and he fails to take reasonable steps to prevent the consumer from relying on the indication.

- **Section 13** provides that no person shall advertise for supply at a specified price goods or services which that person – does not intend to offer for supply; or does not have reasonable grounds for believing can be supplied, at that price for a period that is, and in quantities that are, reasonable having regard to the nature of the market in which the person carries on business and the nature of the advertisement.
- **Section 16** provides that no person shall demand for or accept, any payment or other consideration for goods or services, if at the time of the demand or acceptance that person - does not intend to supply the goods or services; intends to supply goods or services materially different from the goods or services in respect of which the payment or other consideration is demanded for or accepted; or does not have reasonable grounds to believe he will be able to supply the goods or services within any specified period, or where no period is specified, within a reasonable time.

- **Section 56** provides that where services are supplied to a consumer, there shall be implied a guarantee that the consumer shall not be liable to pay to the supplier more than the reasonable price for the services.

## Recommendations for Improvement

- Malaysian Qualifying Agency together with the Ministry of Education must conduct frequent screening on the ability and credibility of higher institutes in providing education services to students. Courses offered must be conducted with adherence to standards set by the Ministry of Education.
- **The Ministry of Education** should examine the fees imposed by private institutions to ensure the amount charged is justifiable and not excessive. Private Institutions should only impose fees which are reasonable according to the course undertaken and facilities used and provided for students.
- Learning Institute / Centre must act in ethical manner when dealing with consumers. There should be a standard redress mechanism in dealing with request for refund.
- Deposits paid by student for their enrolment in institutions must not be totally forfeited in the event students request to cancel their enrolment. These institutes should only be allowed to forfeit the relevant sum in regards to enrolment process. The remaining balance should be returned to the respective student accordingly.
- Ministry of Domestic Trade Cooperatives and Consumerism must take stern action against companies selling products under misrepresentation.

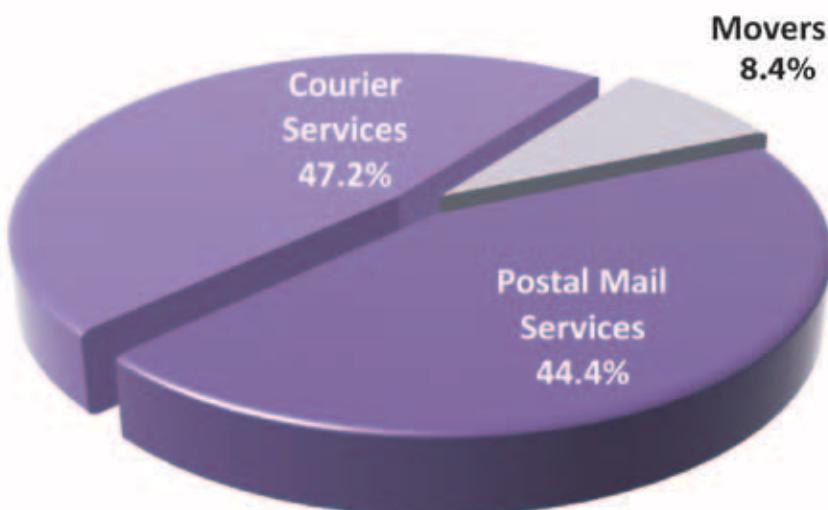
## 11 Complaints Related to Postal & Courier Services



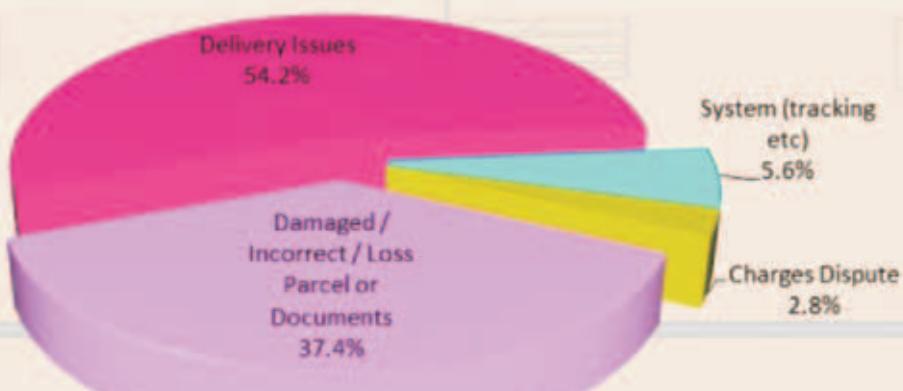
For 2013, there was a notable increase in the number of complaints related to postal courier and logistic services mainly because this sector is included of complaints on movers, a feature that was missing in the previous years NCCC's annual report.

A total of 900 complaints were recorded by the National Consumer Complaints Centre (NCCC) for this sector in 2013. Complaints related to courier services top all complaints with 47.2% followed by postal mail services with 44.8% and a negligible amount of 8.3% contributed by complaints made against movers.

**Complaints Related to Postal and Logistics Services - NCCC 2013 (n = 900)**



## Nature of Complaints Related to Postal and Logistics Services - NCCC 2013 (n = 900)



It is important to note that one very established Postal and Courier Company, having been in business for over a hundred years were constantly identified in the NCCC's complaints analysis. As a matter of fact this said service provider had even made headlines recently for its employee's blatant misconduct of dumping consumer's mails / couriers' into a ravine located in the Klang Valley that resulted in their customer's loss of important documents i.e. letters, contracts, agreements and cheques.

Other complaints related to the same service provider were made due to below-par customer service, rude employees and other services that were deemed not to meet the consumer's satisfaction.

### Nature of Complaints Related to Postal, Courier and Logistic Services

A majority of the complaints that were recorded by the National Consumer Complaints Centre (NCCC) were in relation to the delivery of postal

or courier services. When complaints were lodged to rectify the delay, consumers were dissatisfied with the explanation given as it seemed that the service providers were utterly irresponsible by not admitting to their fault. In some cases, complainants had endured loses as the courier that they were expecting contained goods for trading purposes.

When a claim was made for such losses against the service provider, they will take no responsibility of the delay and in most instances will not agree to compensate the complainants.

In addition to the above, some complaints indicate that when goods go missing amidst a transit, the service providers will not take responsibility despite it being clear that it was their negligence and oversight that had caused such.

Complaints relating to damaged parcels come in second highest, contributing 37.4% of the total complaints for this sector. Some of the types of complaints are damaged goods / parcel upon arrival, the receipt of a totally different parcel

/ goods and the loss of important documents / contracts / agreement and etc.

Complaints related to the tracking of postal / courier services and logistic services recorded a very number of complaints under this category. Some of the complainants got really disgruntled when they were not able to track their packages despite being given a tracking number.

Charge disputes recorded the lowest percentage of complaint under this category.

## Consumer Protection Laws Applied in Managing Complaints Received

### Laws

As of 1<sup>st</sup> of November 2001, the **Postal Industry came under the purview of the Malaysian Communications and Multimedia Commission**, under the **Postal Services Act 1991**, empowering the Commission to take over as the regulatory body of the Postal Industry.

The **Postal Service Act 1991** has been replaced by the **Postal Service Act 2012**.

As such, this said **Act** provides for the licensing of postal services and the regulation of the postal services industry.

**Section 52** of this Act spells out for Consumer Complaints as follows:

- (1) If the Commission receives a complaint from a consumer has not addressed his complaint through the complaints handling procedures of the licensee, the Commission shall refer the consumer to the respective licensee.
- (2) The Commission may also conduct an investigation against a licensee provided that the consumer has followed the complaints handling procedures of the licensee.

- (3) The Commission may determine the rules on the procedures for the making, receipt, handling and dispute resolution of complaints of consumers regarding the conduct or operation of licensees.

## Recommendations for Improvement

The Malaysian Communication and Multimedia Commission (MCMC) should review The Postal Act 2012 to increase protection to the general consumers at large.

As the issues were highlighted in earlier paragraphs, the Act should focus on consumer protection with regards to the delay caused in receiving goods via postal or courier services. It should clearly stipulate for a minimum time allowed for delivery failing which the postal or courier service providing entities shall be liable for any subsequent damage or loss suffered by the relevant party.

Additionally, the Act should also focus on the loss of goods. Due to the high volume of complaints made in connection to this, it is important that the Act clearly spells out should goods get lost in the midst of delivery, then the company providing such services shall be held liable for any loss suffered by the relevant party.

The regulating body should also conduct site spot-check on a regular basis to ensure that companies carrying out this service should always maintain a system that is up to date to enable their customers to track and locate their package if necessary.

# 12

## Complaints Related to Food & Beverage (including services)



For 2013, the National Consumer Complaints Centre (NCCC) recorded a total number of 812 complaints under this category. This category is inclusive of complaints concerning food & beverages (F&B) and its related services.

One of the factors that caused the increase of complaints compared to the previous year, 2012, is that in 2013 the NCCC has included complaints related to services under the F&B industry where it was not included in the previous report; previously, focus was solely on processed food and other food products.

The chart below depicts the nature of complaints for this sector:

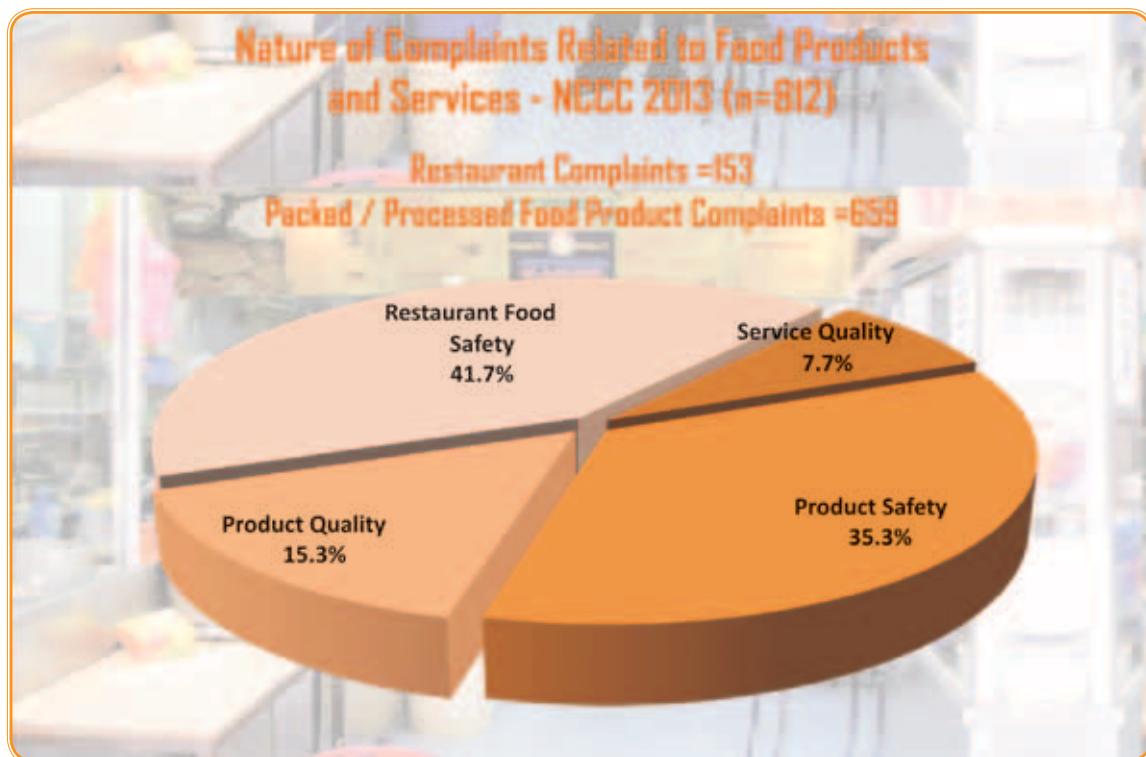
It is pertinent to note that out of the 800 complaints the NCCC has received, 153 were relating to food products & its services rendered by restaurants. The remaining 659 complaints were complaints relating to food products and

services from packed or processed food that were not related to restaurants.

From the chart, it is notable that at least 41.7% of the total complaints were lodged in relation to food safety. Some of the complaints that were recorded in regards to food safety are the sale of expired food, the finding of foreign objects in food (both cooked and processed food), and other food safety complaints such as the sale of stale meat without prior filtering so that they don't reach the racks.

In some instance where such complaints were channelled to the respective restaurants or food outlet, the NCCC witnessed outright denial of such incidents. As such, the complaints were forwarded to the Ministry of Health for their further action.

The NCCC is of the view that some restaurant owners or departmental store managers were



rather defensive of their food & beverage businesses, so much so they neglected the safety and health of consumers at large. Such unethical business requires immediate strict enforcement against them.

Complaints with regards to product safety came in second highest in this category, recording 35.5% out of the total complaints. Some of the complaints in this regard are expired items being sold in supermarkets (uncooked food / processed food / frozen food / raw food items), items sold in tin cans that have been dented and rusted, and the sale of food products without proper sealing (open to bacteria and other particle's) .

In addition to the above, some of the other complaints highlighted in regards to product safety were issues like falling sick or having a bad stomach ache after the consumption of a certain type of food product. In cases like this, it was rather difficult for the NCCC to take

further action as the complainant had also consumed other food products simultaneously but however, the NCCC still did send out a letter to inform the relevant parties about such incidents asking them to conduct regular safety and health checks on the premises of these outlets.

Coming in third under this category are complaints lodged in regards to product quality (15%). Complaints in this regards identified that some retailers do not have proper labelling of price, nutritional value and other ingredients labelling, which some consumers rely on when they purchase a certain food product.

The quality of service rendered by retailers or restaurant workers contributed to 7.7% of the total complaints in this category. Rude workers, taking the wrong orders, not providing accurate receipts and the refusal to refund in some cases were some of the highlights of complaints.

## Consumer Protection Laws Applied to Manage Complaints Received

Apart from the overarching law of **Consumers Protection Act 1999** that cuts through all consumer related issues, the complaints received under the food sector is addressed by the **Food Act 1983**.

**Section 13 and 13A of the Food Act 1983** states that any person found guilty of instances where upon discovery that the food contains substances, which are poisonous, harmful or otherwise injurious to health, the person committing such offences shall be liable to a fine not exceeding RM100,000.00 or imprisonment not exceeding 10 years or both.

**Section 13A** also further states that it is an offence to prepare or sell food which is unfit for human consumption. The **Food Act** also provides provision which outlaws false labelling and advertisements that compromises the safety of food.

Although there is no specific law which regulates the services of restaurants, bars, bistros, cafes or other related food and beverage businesses, that does not mean these operators are immune by law. Complaints of these nature is addressed by **Section 53 of the Consumer Protection Act** which provides that where services are supplied to a consumer, there shall be implied a guarantee that the service will be carried out with reasonable care and skill.

In cases where food products or cooked food are sold at an unreasonably high price, **Section 36 and 56 of the Consumer Protection Act** states that where goods / services are supplied to a consumer, there shall be implied a guarantee that the consumer shall not be liable to pay to the supplier more than the reasonable price of the goods / services.

## Recommendations for Improvement

- Enforcement units of relevant Ministries such as Ministry of Health (MOH), Ministry of Domestic Trade, Cooperative and Consumerism (MDTCC) and local councils should make more regular spot checks on restaurants and food manufacturing factories to ensure safe and clean operations. Those who fail to meet the minimum standard should then be fined or sanctioned heavily.
- Guidelines such as Good Manufacturing Practice (GMP) and Hazard Analysis of Critical Control Points (HACCP) should be made mandatories and elevated to regulations.
- Food operators and restaurants owners should train their staff on basic hygienic food preparation and customer service. Almost all the restaurants in cities depend on foreign labours to run the restaurant business. Language and cultural differences have significant bearing on food hygiene practices in restaurants. Policy makers should develop policies and training methods in consideration of this situation.
- Food Safety and Quality Division should immediately impose stricter standards and enforce them industry wide.
- Industries on the other hand should adopt and follow the many guidelines which promote high standards on food safety and cleanliness.
- Policy makers must establish a food safety incident information sharing system and encourage the general public to report any kinds of food safety incidents on line or through the use of special (free) application in their smartphones.
- Obtaining food safety and clean premise certification upon a check with the relevant premise should be made mandatory with a 1 year renewable timeline.

## 13

## Complaints Related to Healthcare Services



Under this sector, the NCCC received 788 complaints for 2013 which is double the sum of complaints compared to 2012. Potential cost of complaints went up from RM190,331 to RM462,383.65. Highest complaints are on services provided by Private Hospitals and Specialist Centres, that is, 37.9% of all complaints.

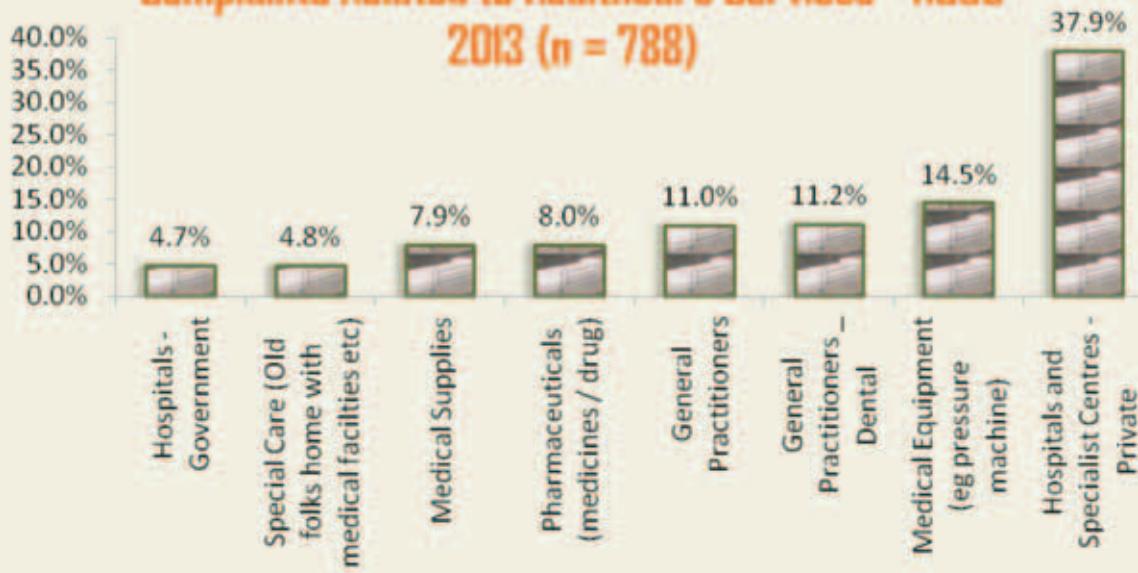
Billing is one of the more common issue related to the healthcare sector whereby consumers argue that the charges imposed are exorbitant and they should have been reduced due to the fact that not all equipments were utilised during treatment. Some even argued that they were wrongly charged for the treatment undergone but refund was denied or delayed by the centre.

There are also cases whereby wrong medication/s were given to consumers that resulted in consumers contracting other kind of sickness or their health deteriorated after. This usually happens in private clinics, in which their pharmacist were not qualified to identify whether the prescription were the right ones.

Consumers also lamented that service provided by the centres are unprofessional in the sense their enquiries were not properly attended to. Any disputes in regards to the billing were prolonged and at times no proper solution were provided to consumers.

For continuous health screening services, the complaints are mostly related to the terms and

## Complaints Related to Healthcare Services - NCCC



**Figure 1: Complaints Related to Healthcare Services**

condition stipulated in the contract. Some of the contracts are one sided in the sense that liability of the centre are protected and the rights of consumers are being neglected so much so that request for refund is made impossible on the part of consumers.

## Consumer Protection Laws Applied to Manage Complaints

### Redress Mechanism on Breach of Profession

The Malaysian Medical Council (established under **Section 3 & 4** of the **Medical Act 1979**) is vested with the power to impose disciplinary action against medical practitioners that have committed a breach of the profession itself. This power is conferred by **Section 29 of the Medical Act 1971** and it covers the following matters and situation:

- The Council may institute disciplinary proceedings when a practitioner appears seriously to have disregarded or neglected his professional duties to his patients.
- Apart from a practitioner's personal responsibility to his patients, practitioners who undertake to manage, or to direct or to perform clinical work for organizations offering private medical services should satisfy themselves that those organizations provide adequate clinical and therapeutic facilities for the services offered.
- A prescribing practitioner should choose the drug or appliance which, in his independent professional judgement, and having due regard to economy, will best serve the medical interests of his patient.
- The disciplinary proceeding shall be made in accordance with **Medical Regulations 1974**.

## Policy & Ethics

**Code of Medical Ethics** was adopted since 2001 and it has served as the basic guideline to the etiquettes and conduct of the medical practitioner.

- **Section I** provides that doctors have the duty to maintain a good standard of practice, care and behaviour.
- **Item 2 of Section II** provides that reasonable charges can be made for services provided and it is in the best interest of the practitioner to discuss this with the patient prior to investigation or treatment. Doctors should abide by the MMA Schedule of Fees.
- **Item 7 of Section II** provides that the patient is entitled to a written report of the care that has been given to him. The doctor is obligated to provide him such a report speedily, without any unreasonable delay. The withholding of information of the care given to the patient is unethical.
- **Item 11 of Section II** the doctor is responsible for the management of his patient including knowing about the safety and efficacy of the modalities of treatment or medication that he prescribes.
- **Item 5 Section VIII** provides that where a dispute arises between a doctor and his patient and a complaint is brought to the Ethics Committee, the doctor should respond to queries of the Ethics Committee as soon as possible, as provided in the Rules of the Ethics Committee.

## Private Healthcare

**Thirteenth Schedule of the Private Healthcare Facilities and Services (Private Hospitals and Other Private Healthcare Facilities) Regulations** provides for a schedule of the cost of each medication, medical services, body part that is affected by the medical services.

**Private Healthcare Facilities and Services (Private medical Clinics or Private Dental Clinics) Regulations 2006** specifically provides for regulation in regards to private clinic and dental clinic.

- **Regulation 8 and 9** provides that private medical clinic or private dental clinic shall ensure that all healthcare professional staff is registered under the law or experience derecognition by Director General; and have such qualification, training, experience and skill to practise in his particular specialty or subspecialty in the field of medicine or dentistry, nursing or other healthcare profession
- **Regulation 10** provides that patient must be treated by registered professionals in both private clinic and dental clinic. The patient must be informed about the nature and procedure of the treatment.
- **Regulation 15** provides that private medical clinic or private dental clinic shall provide a policy statement which shall include: staff identification; billing procedure; patient's rights to — information concerning medical treatment and care; be informed of grievance procedure; and be supplied or provided with patient's medical report.
- **Regulation 17** provides that a private medical clinic or private dental clinic shall, inform the patient upon request — of the estimated charges for services based upon an average patient with a diagnosis similar to the tentative or preliminary diagnosis of the patient; and of other unanticipated charges for services that is routine, usual and customary.
- **Regulation 26 and 27** provides that patient shall be provided with grievance mechanism plan which shall include a method by which each patient will be made aware of his rights to air his grievances and the grievance procedures. Grievances may be submitted either orally or in writing.



- **Private Hospitals and Other Private Healthcare Facilities and Service Regulation** contain the similar regulation as above i.e. information in regards to the treatment, supply of medical report, preparation for emergency situation, billing – average billing to other patient with the same sickness and itemised billing.

## Recommendations for Improvement

- The Ministry of Health should always be made aware of the billing and charges imposed by hospitals and clinics. Healthcare service should not be treated as business transaction per se, but it should also bear the responsibility and the passion to help the citizen as mentioned by the Hippocratic Oath.
- The Ministry of Health should always review treatment procedures and achievement records to evaluate a medical practitioner's competency before renewing or issuing licences that will enable them to practice.
- The time has come for the ministry to consider of the setting up a health tribunal as what was done in the state of New South

Wales in Australia now. This is to expedite the process of hearing and award by the Medical Council which currently does not have balanced stakeholder representation – Especially those representing aggrieved patients.

- Hospital should take the initiative to expedite the investigation process when a complaint had been lodged against them. Most of the hospitals take months just to conduct an investigation.
- Heavier punishment should be imposed on medical practitioners in cases of gross negligence. Fines should be imposed widely as to prevent them from being irresponsible and negligent.

## 14

## Complaints Related to Public Transport

The NCCC recorded having 725 complaints related to the Public Transport sector with an accumulated potential loss of RM78,113.20. Complaints on busses topped the chart with 55% of the total number of complaints whereas other services recorded complaints of about 15.4% as depicted by the figure below.

The majority of the complaints focused on the services quality as shown in Figure 2. Service quality complaints related to punctuality of the commuting time, ethics of the drivers, and comfort of using the transportation service. Consumers complained that that public transports were often delayed from the

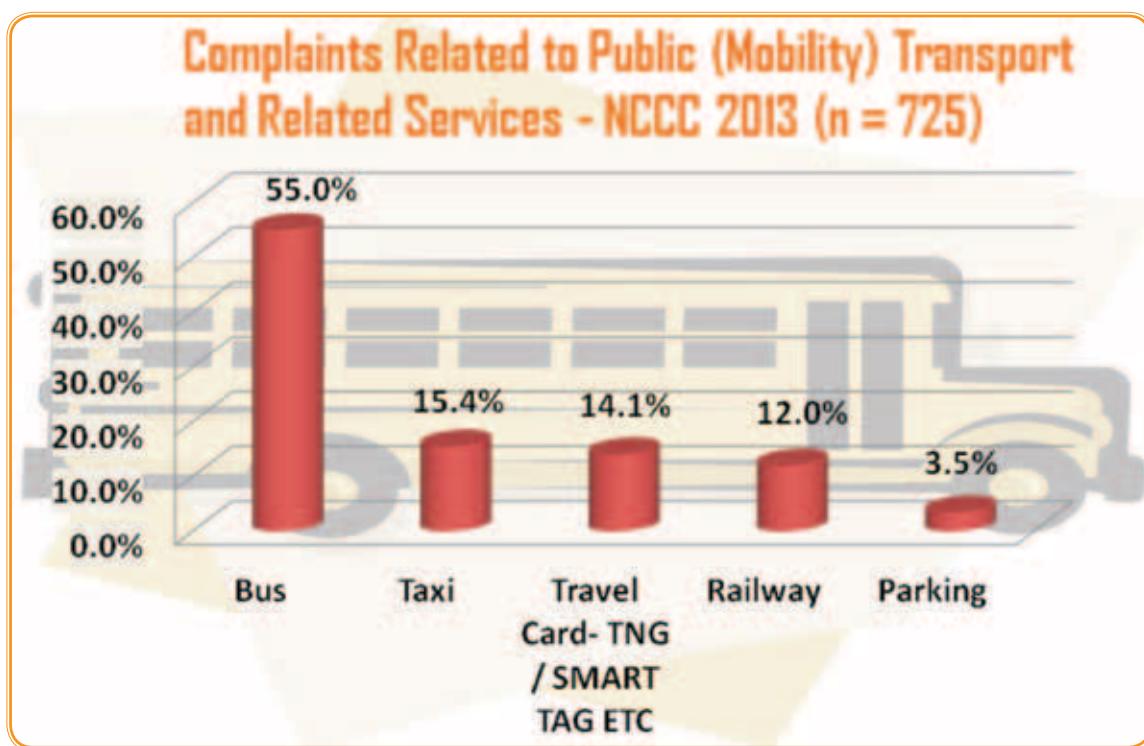
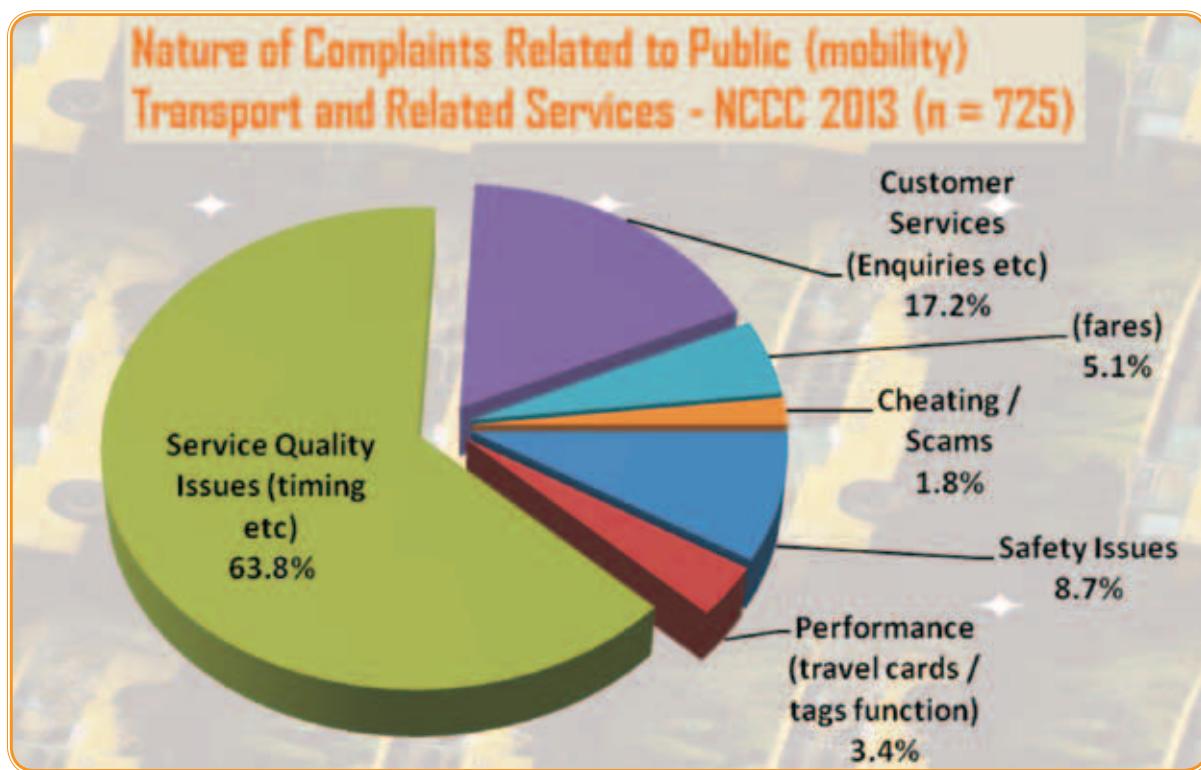


Figure 1: Complaints Related to Public Transport



**Figure 2: Nature of Complaints Related to Public Services**

scheduled time so much so that it affected consumer's trust in the system. The delay also affected their plans or activities that ought to be done by consumers especially when the public transport is required to travel between cities. Some of the drivers be it taxi or bus were often rude to passengers in terms of words uttered or actions.

Poor customer service is another type of complaint received from consumers whereby according to them, enquiries and grousing were not properly attended to. No solution nor action of any sort were taken to resolve the complaints made by consumers which indicates that there is a poor complaint handling process or management in regards to the said service.

5.1% of the complaints are related to fares charged by public transport service. There were

some allegations that taxis were using tampered meters and thereby making fares increase dramatically within a short period of time. Apart from that, some consumers complained that they were forced to pay higher than the fares shown on the meter and they were scolded by the taxi driver when they refused to pay the insisted amount. Bus ticket fares during festive seasons were sold at an above market price, not according to the guidelines set by the Commission.

Safety issues were another concern under this sector because it involves the lives of people. Road accidents involving public transport are becoming too frequent. Thus safety issue should not be taken lightly by the Commission. Roadworthiness of the vehicles used must be ascertained apart from ascertaining the credibility of drivers.

## Consumer Protection Laws Applied to Manage Complaints Received

### 1) Laws

All public transport services came under the purview of Land Public Transport Commission (SPAD) whereas their power and jurisdiction are embodied under the **Land Public Transport Act 2010**. The Act governs all matters including licensing, vehicle, power to investigate, consumer protection and etc.

- **Section 3** expressly provides for the jurisdiction and power of the Commission which include policy and planning in order to ensure a better quality of services upon the approval of the Minister.
- **Section 162 & 163** provides that the Commission may conduct investigation upon receiving in regards to the industry.
- **Section 166** provides that a licensee, licensed operator and terminal licensee providing land public transport services have a general duty to deal reasonably with customers and adequately address customer complaints.
- **Section 167** provides that the commission may, on its own initiative or upon the recommendation of the land Public Transport Forum, prepare or cause to be prepared customer standards which may be set out in guidelines issued under this Act.
- **Section 168** states that there shall be a forum known as Land Public Transport Forum and shall have the power to enforce its jurisdiction as spelled out under the Act which also include consumer protection.

## Recommendations for Improvement

- More public transports should as practicable be put on the move during peak hours to



overcome the complaints on punctuality. The interval should also be shortened to a few minutes so that passengers would not have to wait for so long before they can board the public transport.

- The Transportation Ministry together with SPAD should regulate and ensure strict adherence to overcome the issues of delay in service rendered by public transportations. This is specifically to address the ridiculous inconsistency of public buses at large. This should not be taken lightly due to the high volume of Malaysians depending on public transportation to commute to work.
- Constant inspection must be carried out on public transport vehicle in order to ensure its roadworthiness and indirectly secured passengers' safety.
- Public transportation service providers should always strive to ensure only competent drivers are hired. This is pivotal to the safety of the public transport users at large. Strict disciplinary action should be taken against drivers who have been reported acting in a reprehensible manner.
- SPAD should revoke the licence of public transportation drivers that have bad reputation for negligent and reckless driving. Taxi drivers who do not comply with laws that require them to use meters and not to tweak them for profiteering should be penalised in the event they violate the law. Taxi meters must be included in the legal metrology system and governed accordingly. Additionally, recurring offenders should have their licence revoked and not be allowed to operate taxi services.

# 15

## Complaints Related to Insurance Industry

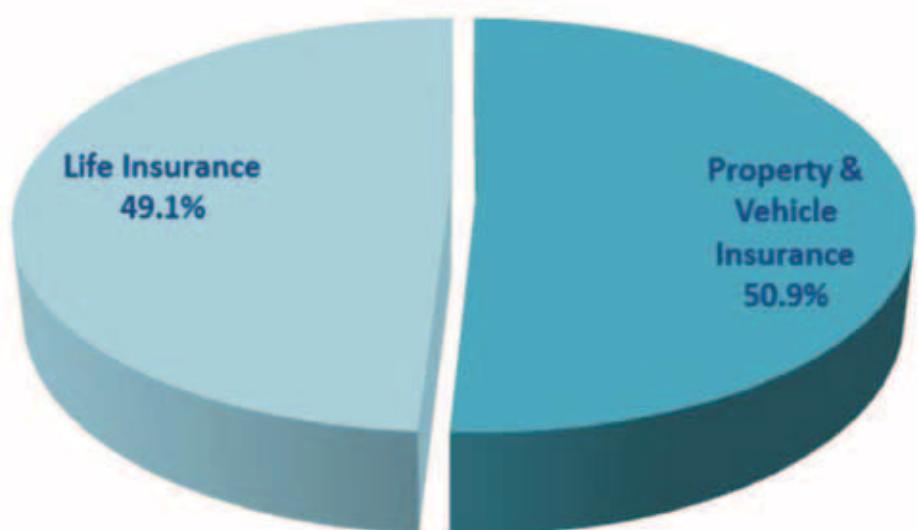


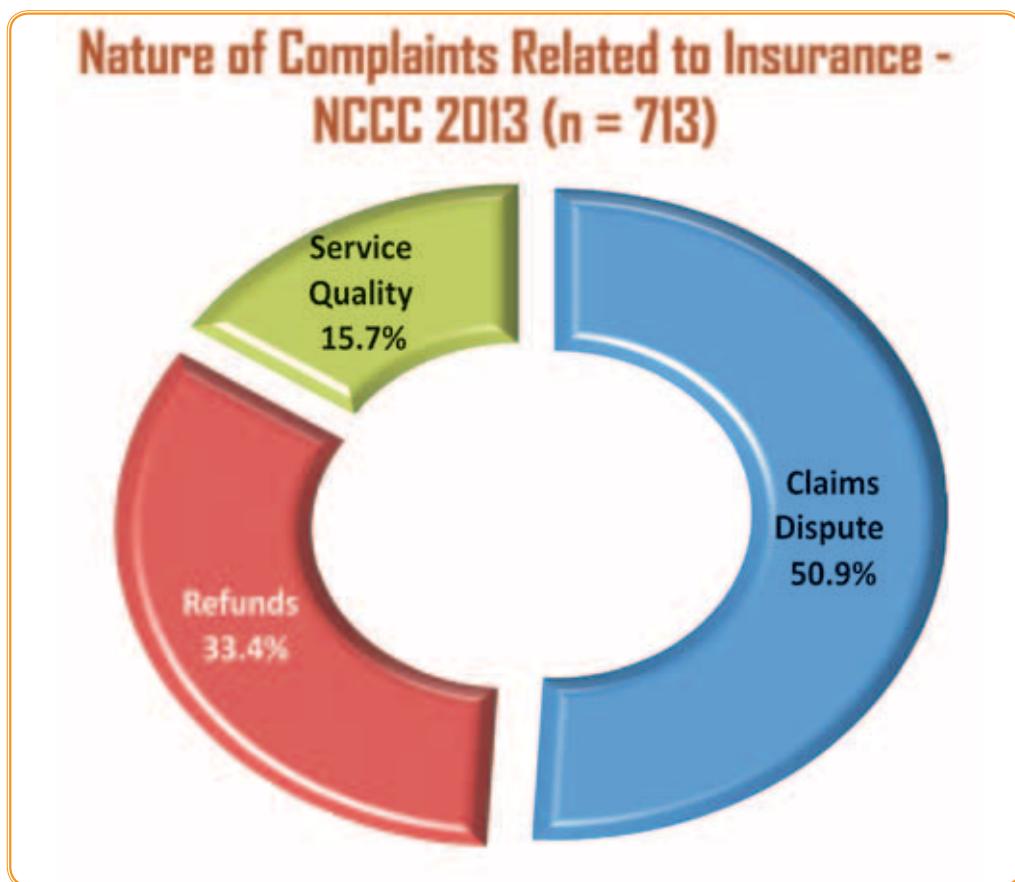
713 complaints were lodged against the insurance industry for the year 2013. This year, vehicle insurance claims topped the charts with 50.9% out of the total complaints under this category with complaints pertaining life insurance following a close second with 49.1%.

When compared to the previous year, the NCCC witnessed a drop in the number of complaints recorded. This could be reflective of the insurance companies resolving consumer complaints in a timely and judicious manner.

The chart above depicts the nature of complaints made against the insurance sector.

**Complaints against Insurance Sector based on Type of Insurance Services - NCCC 2013 (n =713)**





Claims dispute topped the nature complaints for this sector, recording at least 50.9% of the total complaints. The type of claims dispute that the NCCC usually record indicates that insurance companies have the tendency to pay out less than what was promised. When this happens, the complainants turn to the regulating bodies or insurance associations for redress but are often left disappointed. It is at this point they decide to lodge a complaint with the NCCC to seek redress.

Complaints made in relation to refunds came in 2<sup>nd</sup> with 33.4% out of the total number of complaints for this sector. Complainants feel that they have been taken for a ride by insurance companies when they aren't refunded in the event they decide to surrender their policy. When they aren't happy with the amount that is to be refunded to them, they seek for reasons from these companies and when they don't receive adequate or logical reasons, they lodge

a complaint to the NCCC for support.

Service quality seems to pose concerns amongst complainant's it contributed to 15.7% of the total complaints under this category. Most of the complaints highlighted misleading information, misrepresentation by the insurance agency and unreasonable delay in obtaining information or other type of service rendered by insurance companies.

## Consumer Protection Laws Applied in Managing Complaints Received

### Laws

**The Insurance Act 1996** is an Act to provide laws for the licensing and regulation of insurance business, insurance broking business, adjusting

business and financial advisory business and for other related purposes.

In cases where the agent has misrepresented the insured to enter a contract, then the agent shall be held on a personal capacity under the principle of "misrepresentation" spelt out via **Sec 18 of the Contract Act Malaysia 1950**. More often than not, complainants are aggrieved when they make a claim and it get rejected on the basis that he / she is not covered under the policy for that particular claim.

To this, the complainants are often unacceptable to the excuse provided to them as they claim the agents represented to them differently prior to the policy agreement. When reference is made to the contract, it is indeed very prejudicial towards policy holders as there always exists a clause stating that the policy may be at any time cancelled at the company's discretion by way of notice serving to the policy holder.

Additionally, the schemes and schedules made available via insurance policies are more often than not confusing to lay people. To this, the agents sometimes take advantage of lay people's innocence represent to them differently and that representation is deemed to have been crucial in a person entering a contract. Such actions amount to fraud.

**Section 19 of the Contracts Act 1950** states that when a "fraudulent misrepresentation" has been made to one party, then the aggrieved party may render that contract void at his / her choice.

**The Code of Ethics and Conduct for the Life Insurance Policy** clearly states that all insurance agents must as a duty owed to their prospective clients make clear to them they are mere agents who sell policies for the company they are attached to, make know to the insured the company they are acting for and explain clearly the type of insurance they are selling.

## Recommendations for Improvement

As a large volume of complaints were made in relation to the time taken to process a claim, there should be laws governing this situation. Should a policy not be stipulated as to the time taken in honouring a claim, then the law should spell out a maximum time allocation for such failing which the insurance company shall compensate the insured with additional charges incurred due to the delay that has taken place.

Additionally, should an insurance company provide the insured with no valid reasons for delays then they will be charged a penalty to further compensate the insured.

In cases where agents act for insurance companies, their agents should only be held liable for cases of misrepresentation or fraud (receiving premium on behalf of the company from the insured with the intention to siphon) should the insurance company discharge their duty by informing the insured that all payments should only be made directly to the company.

However, should an insurance company authorize expressly or impliedly to the insured that the agent in issue is entitled to receive any payment and in the event the agent siphons away such payment, then the insurance company should be held strictly liable for losses incurred thereafter while any policy in issue should be re-instated in cases of lapse of such.

Additionally, Persatuan Insurance Am Malaysia (PIAM) and Life Insurance Association of Malaysia (LIAM) should work closely with the NCCC in resolving complaints in a timely and judicious manner.

The Financial Service Act 2013 is said to push the burden of compensation towards agents. This makes is extremely difficult to the aggrieved consumers as the NCCC is of the view that

# 2013 annual report



Insurance Companies should be liable for the act and misconduct of their own agents.

As such, Insurance Companies will be even more stringent with their selection process to only allow competent and reliable agents to represent them.

The shift of burden is also still not made known to the general public at large. As such, it is a must for Insurance Companies to make clear to all their customers that they will not be liable for their agent's misconduct.

The Insurance industry is currently regulated by Bank Negara Malaysia (BNM). The NCCC is of the view that a special Commission should be set up to hear insurance disputes alone. The industry is so vast that it deserves special attention amidst a dispute between insurance companies and its customers at large.

# 16 Complaints Related to Media & Broadcasting

The NCCC recorded 600 complaints with an approximate loss amounting to RM121,504.09. The number of complaints has dropped this year nevertheless issues regarding this sector remain the same. Complaints on service quality and charges or billing disputes, both, received 31.9% each under the Media and Broadcasting industry. According to consumers, the service quality has not improved throughout the years. The service provider failed to tackle the problem and come up with a solution to the problem faced by consumers. Consumers are unable to enjoy watch shows without interference although they have been paying promptly for the services.

As for the charges and billing disputes, issues cover a diversified nature of grousing. Consumers claim that there was a misrepresentation as to the additional services provided to them. They were informed such additional services will not be included in the billing and thus it will become free of charge. However, to their surprise, the charge was included in the billing and no appropriate explanation was given for this.

Apart from that, consumers argued that they are paying more for poor quality of service. The quality worsens when during the rainy season. Thus, based on this, consumer argued they should be charged equivalent with the quality of services rendered to them.

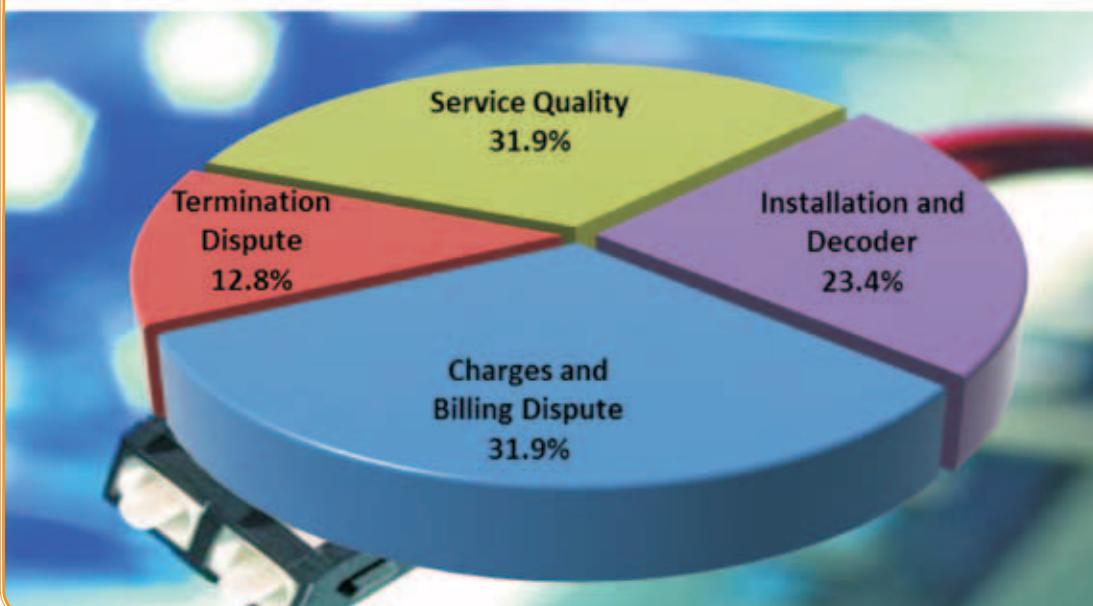
Complaints related to installation and decoders recorded 23.4%. The installation sometimes was delayed without adequate justification and it was not carried out properly. There are also instances whereby decoders malfunctioned



upon its delivery to consumers. This issue is related to product quality.

About 12.8% of the total complaints focused on termination whereby consumer lamented that they were still charged although the account had been terminated. Some complained that the termination process takes a long time before the request is approved. Thus consumers have to keep on paying notwithstanding their request to terminate the service.

## Complaints Related to Media and Broadcasting (Subscription) - NCCC 2013 (n = 600)



## Consumer Protection Laws Applied to Manage Complaints

### 1) Laws

All the conduct and business practices of broadcasting and multimedia industry fall under the jurisdiction of **Malaysian Communication and Multimedia Commission**. The governing law would be none other than **Malaysian Communication and Multimedia Commission Act 1998** and **Communication and Multimedia Act 1998**.

#### i. Malaysian Communication and Multimedia Commission Act 1998

- **Section 16** provides for the powers of the Commission which cover all incidental matters in relation with the performance of the industry. This includes the legislation of law, implementation, enforcement, so on and so forth.

#### ii. Multimedia Commission Act 1998 and Communication and Multimedia Act 1998.

- **Section 188** provides that any network facilities provider, network service provider, applications service provider shall – deal reasonably with consumers; and adequately address consumer complaints. Breach of this act will result in fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding six months or a combination thereof.
- **Section 189** provides that the Commission has the power to form a consumer forum for the purpose of protection the rights of the consumers.
- **Section 190** provides that consumer code prepared by Consumer Forum shall include model procedure for – reasonably meeting consumer requirements; complaint handling process and protection of consumer information. The matter in the code may include but not limited to – information on services, rates and performances; the provisioning and



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fault for repair services; advertisement and representation; matters related to credit; other matters related to consumer concerns.

- **Section 195** vested the power on the Commission to resolve complaints from consumer in accordance with the Act.
- **Section 196** provides that Commission shall establish procedures or guidelines related to consumer complaints and practices of the licensees.
- **Section 197** provides that service providers may set the rate in accordance to market rates and the rates must be published clearly to the consumers.
- **Section 198** provides that the rates set by the service provider must be based on – fairness / not discriminatory; costs oriented; no discount which will lead to anti – competitive behaviour; structured and clear explanatory of rates; and regulations and recommendations of the international organization.
- **Section 199** provides that Minister may intervene freely in setting the rates upon the recommendation of the Commission.

By virtue of **Section 190** (in accordance with **Section 95**) of the **Communication and Multimedia Act 1998**, a code known as **General Consumer Code of Practice for the Communication and Multimedia Industry 2003** was issued to further guide the industry on the standards required to be followed.

- **Fundamental Principle for Service Providers** - service providers should furnish all information relating to the services to the customer which is up to date, clear and unambiguous. Service providers also have to respond to the customer within 7 days in whatever reasonable means of communication upon receiving the request for information from the customer.
- **Description of Service** – before entering the contract, all description must be made

known to the customer in plain language by the service provider and shall provide information on the performance details

- **Pricing information** – any matter relating to charges must be made known to the customer i.e. amount, description of charges, and the frequency or circumstances to render the charges payable.
- **Terms and Termination** – all the terms and conditions must be furnished to the customer in clear and unambiguous words. The terms provided in the contract must cover all angle and circumstances that can reasonably be foreseeable. Service providers also have to state the circumstances and the conditions relating to termination of the contract itself.
- **Customer Right to Redress** – service providers must inform the customer about the contractual warranty (if any) and the right to redress upon the breach of warranty.
- **Spoken Communication of Prices, Terms, and Conditions** – Spoken communication includes telemarketing, door to door sales, direct personal sales, and sale through representatives. The customer must be informed about the service provider's brand name, the person making the sale, and the purpose of communication. There are few things that must be communicated to the customer i.e. brief description of the service, the charges if any, and the nature of any special offer, discount or package.
- **Customer Billing, Charging, Collection and Credit Practices** – service provider must ensure that customer are able to obtain information relating to the bill itself. The bill issued to the customer must be accurate, can be verified and available. The mode and method of payment must be included

## Recommendations for Improvement

- The Ministry should provide stringent rules to ensure that the quality of products and services supplied to the consumer reflects the price and charges.
- The Code of Practice should not remain idle. It should be made mandatory to the service providers so that the level and amount of dissatisfaction can be reduced.
- Compliance of the Code as stated under **Section 98** of the Act must not be treated as an absolute defence to the offence committed by the service provider before the compliance is strictly evaluated.
- Panel in the Consumer Forum should be led by Consumer organization so that better consumer protection in this sector is achieved – which is long overdue.
- The Ministry and industry should take billing matters seriously as it received the highest number of complaints and if not address properly, it will unjustly enrich the service provider.
- Any package that is made available or supplied to consumers should be reviewed by the Ministry or any related departments / agencies to ensure that the package offered is reasonably acceptable to consumers and not merely to increase the pricing.
- **Section 187 of the Multimedia Act** should be amended so as not to exclude the liability of service providers which does not have to possess licence.

# 17

## Complaints Related to Maid Agency



A total of 396 complaints were recorded in 2013 in regards to services supplied by Maid Agency. Based on the complaints received by NCCC, it can be deduced that most of the agencies are taking advantage of the consumers by not following the law. Perhaps this scenario is happening due to non-existence of specific regulatory body when it comes to hiring maid / domestic helper. Monetary loss under this sector amounts to RM253,507.65 all of which arising from the cost to hire a maid.

Part of the complaints focused mainly on the agreement to hire a maid with the agency whereby the terms contained therein are more often than not unfair towards the individual

hiring a maid. Since there are no standards or basic agreement to facilitate this type of hiring, agencies are free to draft their own terms and conditions to the effect that only the interest and liability of the agency will be protected and not the party.

The contracts often spill out one sided terms such that agency will not be liable if the maid runs away after the expiry of warranty period and the other party has to bear the cost to get a new maid as well as the cost to send back the former maid back to her country. In actual fact, this is actually a common problem faced by many after hiring a maid. It is either the maids inform the agency that they don't want to work for the employer or they run back to the agency. In other words, the party hiring the maid has to bear all cost regardless of the circumstance and the quality of services provided by the maid, which in most cases are not worth the cost.

The agency on the other hand insist to rely on the agreement made by them. However, the odd part of the agreement is that, only the individual hiring the maid signs the agreement and not the agency. It is a well-known fact that to make a contact enforceable, both parties must sign the contract. Although the employer wishes to terminate the contract, the agency will impose high cancellation fees on them.

### Consumer Protection Law Applied in Managing Complaint.

Since there is no specific Law governing Maid agency, reference of law can be made to

Consumer Protection Act 1999 and Contract Law 1950.

## 1) Consumer Protection Act 1999

- **Section 6** provides that the Act shall have effect notwithstanding anything contrary in the agreement.
- **Section 24A** states that unfair term means any terms contained in the contract that causes imbalance on the rights and duties of both contracting parties.
- **Section 24B** provides that the provision on unfair contract terms shall prevail notwithstanding any discrepancy with Contract Act 1950, Sales of Goods Act 1957, and any other enforceable laws.
- **Section 24C** provides that the contract is procedurally unfair if it has resulted in unjust advantage on the supplier or unjust disadvantage on the consumer and for the purpose of deciding the case, the court or tribunal may take into consideration matters including but not limited to bargaining strength of both parties, fair standard of dealings so on and so forth as provided under the section.
- **Section 24D** provides that terms of contract is unfair if – (i) harsh; (ii) oppressive; (iii)unconscionable; (iv) exclude or limit the liability for negligence; or (v) exclude the liability for breaching the contract without adequate justification.
- **Section 24G** provides that the court or tribunal declare the contract or the terms to be unenforceable or void and judgment or award may be ordered as the court or tribunal thinks fit.
- **Section 24H** provides that where a contract has been executed, the court or tribunal may consider restitution or compensation where applicable and practicable.

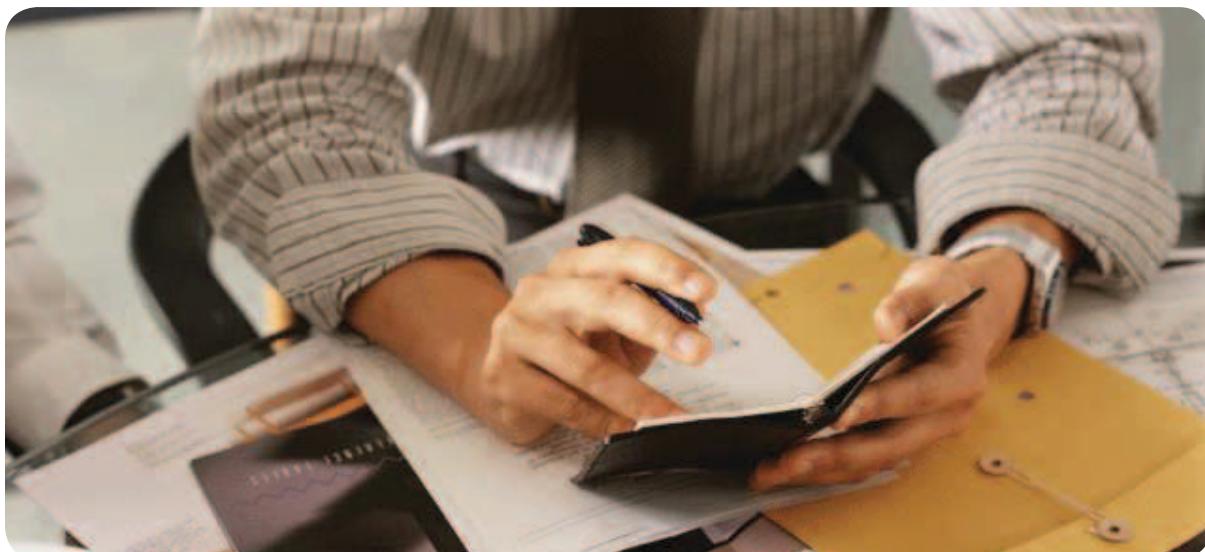
## 2) Contract Law 1950

- **Section 10** provides that agreements are contracts when made by free consent for a lawful consideration, with lawful object and does not contrary to any existing laws.
- **Section 18** provides that misrepresentation includes; (a) positive assertion of a false information which is known by the person making the assertion; (b) breach of duty which causes advantage to the person violating the duty; or (c) causing another party to make a mistake on the substance of the agreement.

## Recommendation for Improvement

- There should be proper regulatory body to govern the conduct and business ethics of maid agency as well as to take action in cases of misconduct. The regulatory body may also be helpful in terms of being able to advise consumers on the correct procedure to hire a maid from the beginning.
- Basic guidelines of contract to hire maid should be drafted and issued by the legislator in order to facilitate maid hiring process and avoid unjust advantage as what is happening at the moment.
- All maid agencies must provide sufficient trial period to both employers and domestic helpers before they are asked to confirm the employment for a period stipulated in their contractual agreement.

# 18 Complaints Related to Non-Conventional Financial Services



## What are Non-Conventional Financial Services?

They are modified loan terms or eligibility requirements that allow lending to borrowers with limited financial resources. Note that they have to be registered companies. Complaints against non-registered companies will be quite futile as tracking the owners or directors of such companies will be highly impossible.

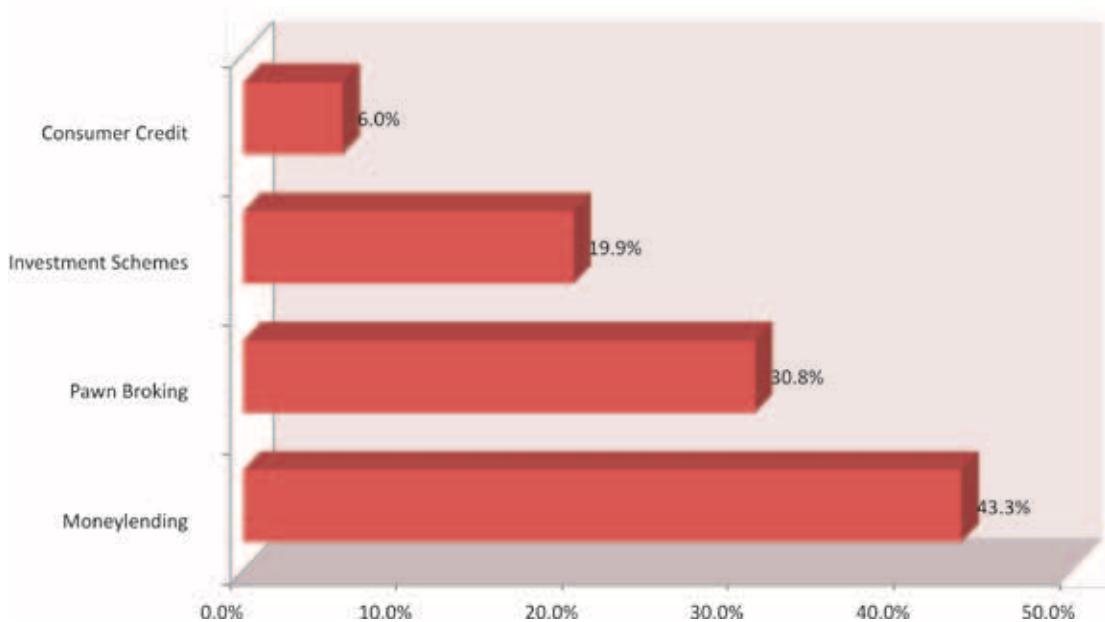
NCCC recorded a total of 274 complaints for 2012 as compared to a total of 201 for the year 2013.

The chart above depicts the nature of complaints received by the National Consumer Complaints Centre (NCCC) with regards to non-conventional financing.

Moneylending complaints tops the complaints charts for this category with a total of 43%. The usual types of complaints that are received by the National Consumer Complaints Centre (NCCC) are when the respondents (moneylenders) amend the terms and conditions of the initial agreement to their whims and fancies and this practise is prejudicial towards the borrowers. This then leads to the complainant not being able to cope with the payment and when such a situation occurs, they seek for NCCC's assistance in representing them to negotiate payment with the moneylenders.

Complaints related to pawn broking came in 2nd highest, contributing 30.8% of the total complaints under this category. The usual types of complaints received are those that revolve around re-claiming the jewellery the complainants had pawned. In some instances,

## Complaints Related to Non-Conventional Financing -NCCC 2013 (n=201)



the jewelleries were auctioned off without proper notification to the complainants'.

Complaints related to investment schemes ranked in 19.9% of the total complaints for this category. The usual complaints are non-delivery of what the investment companies have initially promised the complainants. Some companies conned the public; when they have collected enough money, they pack up and leave. It is at this juncture the complainants lodge a complaint to the NCCC for further assistance.

Complaints relating consumer credit are one of the most oppressive towards consumers at large. One renowned company has been identified to be constantly practising unscrupulous business ethics (using harsh / threatening words and money recovery methods).

When complaints are received by the NCCC with regards to this company, we channel them to the customer relation / recovery department for further information. However, our requests are often spurned by a standard reply stating

that they will deal with the complainant directly.

One other typical complaint about this company is that they seek for debts that are sometimes up to 15 years old. The time frame mentioned here is difficult for one to understand as the impending interest rates over the years mentioned makes an item purchased to be up 50 times more than what was initially owed.

## Consumer Protection Laws Applied to Manage Complaints Received

### Laws

Credit services by cooperatives in Malaysia falls under the purview of the Ministry of Domestic Trade, Co-operatives and Consumerism (**KPDNK**) and is regulated by the Suruhanjaya Koperasi Malaysia (**SKM**).

Additionally, **Section 53 of the Consumer**



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**Protection Act 1999**, stipulates that where services are supplied to a consumer, there shall be implied a guarantee that the services will be carried out with reasonable care and skill. As such, employees representing credit service companies should strictly adhere to this law and thus provide proper information to consumers at large and to their best of capabilities provide efficient customer service that is of acceptable standards. Failure in such may lead to misrepresentation of service provided to the consumers at large and result in companies being liable for losses suffered by an aggrieved consumer.

To deal with pawn broking issues, reference is more often than not made to **Section 23(1) (a) and (b)** of the Pawnbrokers Act which spells out that pawnbrokers are bound by the duty to inform the borrowers the time, date and place of auction to be held. Additionally, the auction has to be publicised. Apart from that, via **Section 25** of the same **Act**, all pawnbrokers are to notify their respective borrowers within a week of an item sold or auctioned.

The principle of ‘misrepresentation’ may be also applicable in cases where employees acting in behalf of consumer credit service providers make representation, wholly or partially not true and that misrepresentation was crucial in a customer entering into a contract, then **Section 18 of the Contracts Act Malaysia 1950** may be invoked and consumers may be awarded damages should the company be held liable for misrepresentation.

## Recommendations for Improvement

The Ministry of Domestic Trade, Co-operatives and Consumerism (**KPDNKK**) and the Suruhanjaya Koperasi Malaysia (**SKM**) should strictly scrutinise all cooperative credit service providers at large. They should ensure strict adherence to the way in which these credit

service providers are allowed to operate, hence offering further consumer protection to the general public at large.

The body governing pawn broking services should come under the purview and be regulated strictly under the KPDNKK as opposed to The Ministry of Housing and Local Government. This will provide a redress mechanism for aggrieved consumers.

Laws relating to the auction without notice to borrowers should be strictly applied to curb pawn brokers from profiteering on the financially burden.

## Consumer Protections Laws Applied in Managing Complaints with Regards to Investment Scams

There are no clear laws in Malaysia pertaining to Investment scams.

Should the NCCC receive complaints in relation to a cooperative; we forward them to the Suruhanjaya Koperasi Malaysia for their perusal and immediate action.

## Recommendations for Improvement with Regards to Investment Scams

More often than not, complaints sent to the Suruhanjaya Koperasi Malaysia (SMK) are not dealt with adequately with sufficient care. Complainants on a very often basis come back to the NCCC and inform us that no proper action has been taken against the cooperation.

To this, the KPDNKK should ensure that the SKM are diligent in handling and resolving complaints with utmost care.

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SKM should hold a meeting with the NCCC on a regular basis to discuss on consumer protection policy reforms. This will help curb the unfair manner in which companies and cooperation's conduct their businesses. They should also further discuss the complaints trend of NCCC on a yearly basis to close all available loopholes in the law that leads to the scamming of the public at large.

Other credit service providers should come under the purview of the central bank – Bank Negara Malaysia and the Financial Services Act must apply to them as well.

# 19

## Complaints Related to Legal Professional Services



The NCCC recorded a total of 165 complaints against the legal service in 2013. The amount involved was still huge because most of the complaints were related to sale and purchase transactions. The total loss suffered by complainants amounted to RM87,016 due to the negligence and unethical conduct of legal practitioners.

Consumers often lament that some legal firms are very unprofessional and negligent in ensuring that all deals or transactions are being carried out within a stipulated time. They further argued that documents such as sale and

purchase agreement, loan were prepared and executed quite late which subsequently caused the complainant to incur some losses due to penalty for late execution of documents without justifiable reason.

There were also complaints that lawyers charged exorbitant legal fees; thus making consumers not being able to engage lawyers to defend their rights. However, for legal professional services, the Bar Council is the appropriate authority / or regulator for this industry. Lawyers are required to follow the Legal Profession Act and Rulings from Bar Council. Failure to do will result in disciplinary action.

### Consumer Protection Laws Applied to Manage Complaints Received

#### 1) Laws

Lawyer fees have been specifically stated under **Solicitor Remuneration Order 2005** has specifically provides for lawyer fees. **Order 2** expressly mentions about the remuneration that lawyers are entitled to receive. Thus lawyers are not allowed to randomly charge fees without adhering to the Order especially for matters concerning conveyancing.

- **Rule 11 of the Legal Profession (Practice and Etiquette) Rules 1978** provides the guideline for lawyers to determine their fees in litigious or contentious matter only.

- **Rule 16** provides that lawyers have the duty to uphold the interest of client, justice and dignity of the profession. The same was provided under **Rule 31**.
- **Rule 35** further provides that lawyer shall refrain from any action whereby for his personal benefit or gain he abuses or takes advantage of the confidence reposed in him by the client. He shall preserve his client's confidence and this duty outlasts his employment.
- **Part VII of the Legal Profession Act** provides about the disciplinary proceedings against the lawyers and the punishment that might be imposed.

## Recommendations for Improvement

- The conduct of lawyers and firms must be looked at closely by the Malaysian or State Bar. Disbar period or suspension should be long enough to deter and punish lawyers involved in misconduct.
- Investigation in regards to complaints made by the consumer must be conducted as soon as practicable without unnecessary delay.
- Lawyers that have been found liable for misconducts should be monitored closely in order to ensure that they would not repeat the same act. The status of their practice – whether disqualified, pending investigation, etc must be available on a website dedicated to monitoring and assessing the quality of legal professional services.

# 20 Complaints Related to Government Sector

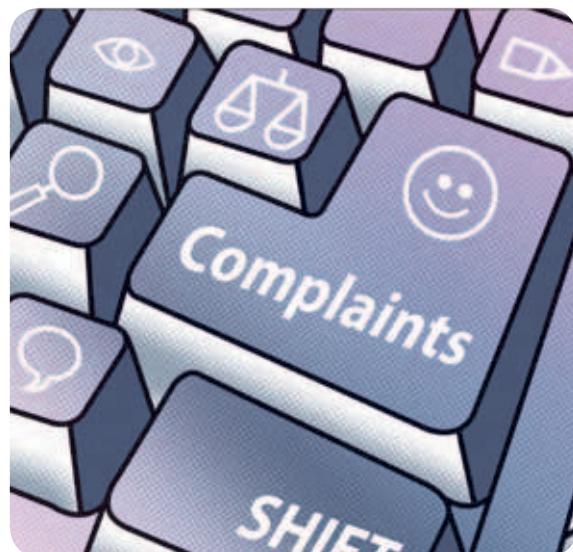
In 2013, NCCC received 66 complaints related to this sector. In relation to this sector, NCCC acted as advisor by advising them to lodge a complaint with the relevant Ministry in order for action to be taken against the party being complained of. Apart from that, complainants were also advised to lodge a complaint with the Public Complaints Bureau (PCB) as they possess jurisdiction to receive complaint related to government bodies. For this sector alone, the amount in dispute involved a sum of RM29,766.00. The nature of complaints includes but not limited to categories below:

## Complaints on GST

Many consumers lament about the implementation of GST which has been announced by the Prime Minister during the budget presentation 2014. Due to current tax which is known as government services tax with its abbreviation being GST, consumers were confused with the implementation and claimed that current GST is illegal.

## Complaint on Price

Price hike has challenged consumers in managing their consumption. Price increases had substantially affected their purchasing power. Many complaints and enquiries met by the NCCC as to whether traders are allowed to impose expensive price on their product, especially groceries and foods.



## Complaint on Salary (Human Resources Related)

Some employee complaint that the employers failed to pay their salary within time and the failure goes up to few months without any justifiable reason.

## Complaint on Registration and Documentation Related Procedure (Immigration / National Registration Department)

Consumers complained that their application for passport or identification card were delayed for no reason and the process was slow as well, causing them to wait for a long time for their turn.

# Annexes

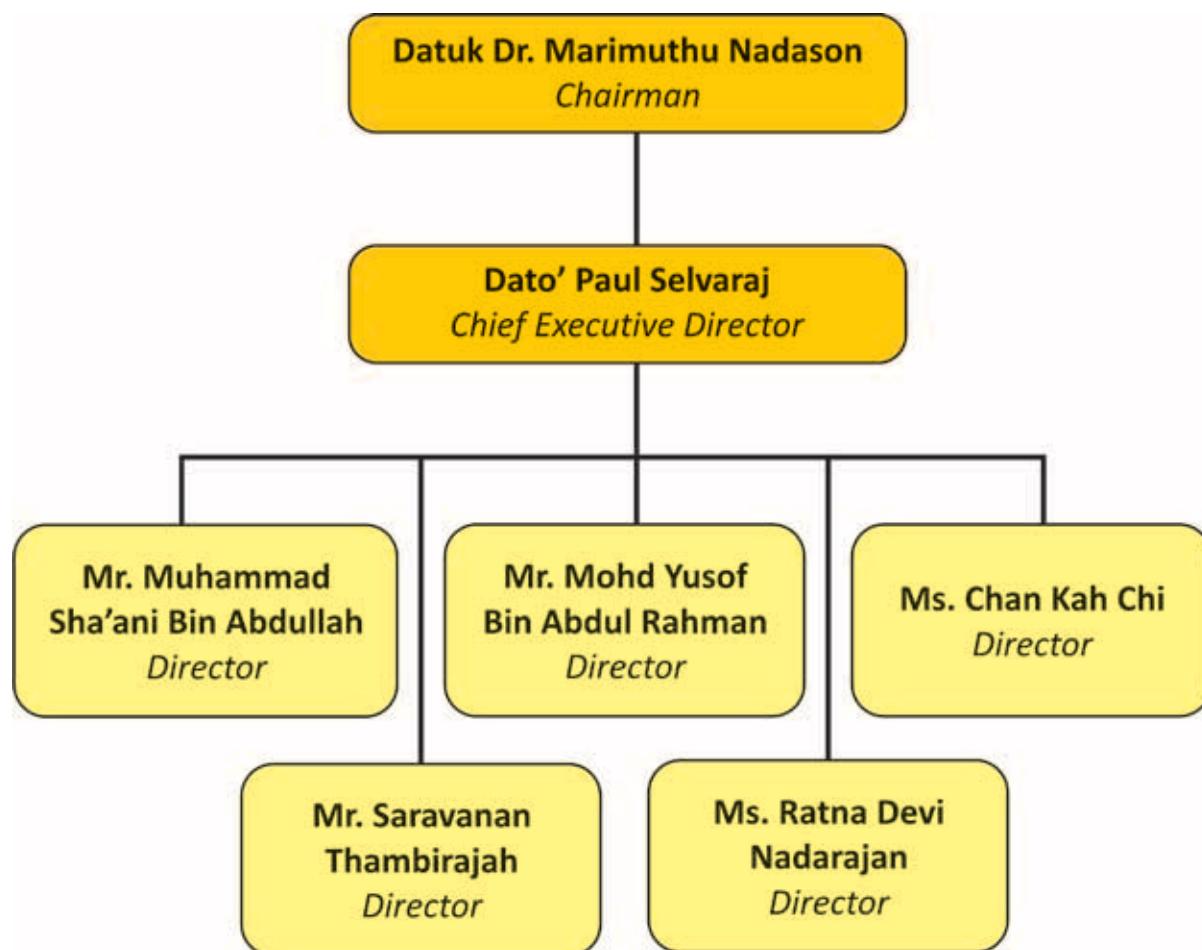


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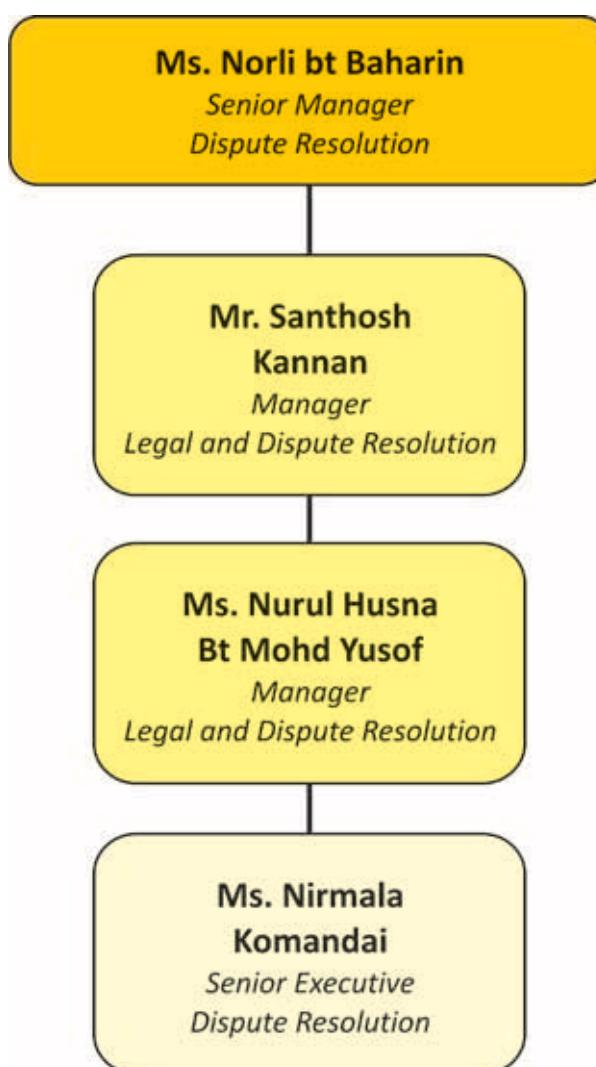
Annex 1

## NCCC Organisational Chart

### Senior Management



## Management Staff



## Annex 2

# NCCC in the Media









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## Annex 3

# Case Studies

### Timeshare



For the past few years, I have been applying 4 months in advance and have always been told it is not available. For my April 2014 request, I submitted it on the 7th Feb and I had to make several calls over the days, and I am told - that only now they will check on it. Today (6th Mar) after calling them they say it is unavailable. I have paid up my full membership fee and all my maintenance cost and have a total of 35 days available.

#### Action:

*NCCC contacted the service operator and negotiated for amicable Settlement. The service operator offered the reservation date.*



sound from the demo car (pls refer to the attachment). And I've been down to their service centre to test drive the car around 5-6KM. I didn't encounter the boiling sound after I off the engine and immediately I got down to walk to front side of my car, if Toyota said this is characteristic of the Prius car, please explain to me that, and it's so serious as this kind of boiling sound is louder than before and it happen very frequently, can said every times I drive out my car and off the engine, immediately the boiling sound procedure from engine, the sound keeps around 2-3 min then it cool down?

#### Action:

*The matter was highlighted to the company and proper testing was done in the presence of the complainant.*



### Automobile

During their test drive with the showroom demo Car, it's same make with my friend's Prius car, Whereby same model 2012 Prius, according to them, they have actually found the boiling

### Telecommunication

The network coverage at the abovementioned area is indeed very weak and poor. The maximum signal bar on that area is only 2 bars. Your immediate action to resolve the problem



is strictly urgent without further delay.

#### Action:

*The service provider conduct a test on network performance and constant monitoring over the performance is related was carried out.*



#### Airlines



On 27 Sep, 13, my luggage has been delayed at the airport in Bali. The airline only delivers the luggage 1 day after, more than 24 hours later.

As I've bought insurance from tune, which is bought together during the flight booking, I am demanding that the insurance company compensate me for whatever is due and stated in the contract. Email has been delivered to both airasia and tune insurance with the relevant details. However there's no reply from their end since then.

#### Action:

*The service provider conduct a test on network performance and constant monitoring over the performance is related was carried out.*



*The company was notified on the complaint and proper assistance was extended to the complainant.*

#### Consumer Product



I had denied the existence of any cracks on the LCD screen when I handed over my MacBook to your company. In my presence, personnel at your front desk who attended to me on 28/3/2013 tested my MacBook together with another male staff and recorded the defects. Both of the did not see any cracks on the LCD screen and accordingly did not record the existence of any cracks on the acknowledgement slip given to me. I categorically deny that the cracks happened in



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my custody. I wish to record my disappointment with your service in dealing with the extended warranty. I was not made aware of the terms of the extended warranty and neither was I made to sign any documents agreeing to the terms when I purchased the extended warranty from your company.

## Action:

*The complaint was brought to the attention of the respondent and the issue was resolved by fixing the LCD and warranty on the LCD was given to the complainant.*



## Banking



I bought a house in Miri on March this year and RHB bank is the house loan provider. By the time of loan acceptance, no one from RHB explain that I need to pay for house insurance provided by RHB. None of them explain any term and condition inside the insurance policy to me. I also didn't put any signature on any contract paper / insurance policy indicate that I accepted this insurance but I am forced to pay the premium as RHB charged the premium into house loan. I will like to make a report on this fraudulent incident. Appreciate your response

on this email and I will provide you any relevant that you require for further investigation.

## Action:

*The matter was brought to the attention of the respective bank and resolution was proposed to the complainant.*



## Health & Wealth



I signed up for 36 months membership at RM90 per month and I was informed that the package I signed up come with another 4 months free membership.

However, to my surprise and disgust, my credit card was swiped for RM3815.05 which is equivalent to 40 months membership and the additional 4 months which was agreed to be free was charged into it when I signed up on 30/9/2013.

## Action:

*The Fitness Centre reviewed and investigated the complaint and proposed for a fair solution to the complainant.*



## E-Commerce



They promised that will refund the money for me since 7/1/14 for maximum 14 working days. But then, on 23/1/14 they email me about to wait another maximum 21 working days for the refund process, after that they email me again said that already refund for me on 23/1/14 but I checked my bank did not receive any payment. So they try to cheat customer? This is not the first case; I just knew that many of friends also met this case before on LivingSocial website. Please help me.

### Action:

*The matter was informed to the merchant and refund was done accordingly.*



## Utility

Lately this few months my tnb bills getting higher. Today I received tnb bill with the bacaan benar tempoh bill from 23/9 to 24/10 with the bill amount RM61.30. Previously month bill around RM30-RM40 and last month bill almost RM85. From the bill bacaan meter 4464 but



when I refer to the meter total meter is only 4235. FYI this is not first time I complain and why I need to pay extra? last year tnb charge me around RM500 for my one month bill and when I complain they refund back the money and few month bill ok but after than problem happen again. I need bacaan sebenar to pay my tnb bill and hope can solve my problem ASAP.

### Action:

*The service provider provided assistance to the complainant after receiving the complaint from NCCC.*



## Mass / Public Transport

I bought a bus ticket through online for my girlfriend to travel from KL to JB. Meanwhile, the bus is departing on time and stop at roadside near Bangi which they claim that the bus got some technical problem after 30 mins. The problem is if the bus got problem which at very early stage and they never check the bus status before depart for long journey. It not only endanger the passenger life also also wasting passenger time for waiting when the bus spoil and wait and roadside. This is not the first we encounter this problem. I wish this complain letter can make a better change in the future.



### Action:

*The matter was brought to the attention of Land and Public Transport Commission for further action and investigation was carried out accordingly.*



*Disclaimer: Pictures are for illustration purposes only and do not reflect the complaints.*

## Annex 4

# Law Reform and Implementation for 2012 & 2013

### Consumer Protection (Electronic Trade Transactions) Regulations 2012

The Consumer Protection Act 1999 was amended to include the above Regulations which shall come into force on 1st July 2013. The main purpose of the amendment is to regulate e-commerce transaction since consumers are more involve into purchasing goods and services online.

Merchants are required to furnish sufficient and adequate details on the web which reflect the standard operating procedures and information like other types of business. Failure to furnish the details as prescribed under the schedule will constitute an offence by the seller. The regulations also laid down other duties and responsibilities on the part of the seller such as proper record maintenance, acknowledgement of receipt and etc.

### Personal Data Protection Act 2010

The long awaited Act has finally come into force on 15 November 2013. 11 Sectors are compelled to abide by the provisions contained under the Act and 3 months were given to these sectors to take the necessary action to ensure compliance. By virtue of this Act, consumers' personal data cannot be disclosed to third party without their expressed consent.



Failure to abide by the Act may result in fine or imprisonment upon conviction. All companies that kept personal data of anyone must register themselves with the Personal Data protection Department. Complaint regarding personal data is to be made directly to the Department but recourse to civil suit must be made if claim of damages on violation of personal data is to be pursued by the aggrieved party.

### Credit Report Agency Act 2010

The Credit Reporting Agencies Act 2010 will be in force effective from 15 January 2014. The NCCC views this Act as an urgent one as the complaints trend indicate the way in which some credit reporting agencies that have access and misuse the general public's credit report without their

consent. It is pertinent to note at this point that credit reporting agencies are not covered by the ambit of the Personal Data Protection Act 2010.

The Act provides for the registration and regulation of persons carrying on credit reporting businesses. The Government indicated that all CRA's including the four main agencies would be required to be registered under the Act, namely, CTOS Sdn Bhd, SME Credit Bureau Sdn Bhd, RAM Credit Information Sdn Bhd and Bradstreet FIS.

The Act requires all CRAs to have and maintain a minimum paid-up capital of RM1 million unimpaired by losses. Where the minimum paid-up capital of a CRA is less than the prescribed amount, it can only carry on a credit reporting business with the prior written consent of the Registrar.

Additionally, in order to ensure that CRAs are properly run and managed, the Act requires a CRA to appoint management who satisfy certain minimum criteria. For instance, chief executives and directors of CRAs are required, amongst other things, to be a "fit and proper" person and to have the probity, competence and soundness of judgment required to fulfil the responsibilities of that position. Where any person who is a director or chief executive of a CRA fails to satisfy at any time the criteria set out in the Act, he must immediately cease to act in such capacity and, under the Act, his appointment in such capacity is deemed automatically terminated. Any person who contravenes this provision commits an offence and shall, on conviction, be liable to a fine of up to RM200,000.

Some of the important parts of this Act are summarised as follows:

**You must be informed by the credit reporting agency by way of a notice which states;**

- i. that credit information is being processed by or on behalf of the credit reporting agency together with its description;



- ii. the purpose for which the information is being processed;
- iii. the source of such information;
- iv. of how you can contact the credit reporting agency in case you have any inquiries or complaints;
- v. you have the right to access to such information and also have the right to request the credit reporting agency to correct your credit information; and
- vi. to whom the credit information will be disclosed.

**Your credit information cannot be collected and used for any purpose other than what is provided under the Act.**

This means that a credit reporting agency, may only collect and use your credit information to prepare a credit report to assess your credit worthiness, which includes but not limited, to any history of failure or diligence regarding payment of your bills (reputational collateral). Your credit information cannot be used or disclosed by any credit reporting agency for purposes other than what is permitted under the Act. An example of such activity includes but not limited to, is disclosing your credit information for direct marketing purposes. In the event that you have information regarding

the occurrence of such practice then a complaint may be forwarded to the Registrar.

### **Your consent must be obtained before a credit reporting agency can disclose / reveal your credit information.**

This means that a credit reporting agency must get your consent before they can submit your credit report to their subscribers.

### **Your credit report can only contain information according to the Act.**

This means that a credit reporting agency cannot include such credit information in their report regardless whether you have given consent or not;

- i. if the source of such credit information is not included in the report;
- ii. if such credit information is regarding any pending proceedings in court more than two years after the proceedings began that has yet to be settled;
- iii. if such credit information is regarding any default in repayment of credit two years after the date of final settlement of the amount in default.

### **Your right to request from a credit provider information regarding reasons of unfavorable credit action**

This means that if a credit provider has taken an unfavorable credit action against you for example; rejects your application for a loan, and that rejection was based on a credit report provided by a credit reporting agency, then you have the right to be informed of the identity of

the credit reporting agency. You have the right to access the said credit report.

### **Your right to access credit information or credit report**

This means that you have the right to have access to your credit information or credit report from a credit reporting agency which holds or have processed your credit report. However the credit reporting agency must verify your identity and confirm that such information is indeed in their database before complying. Upon your request and upon payment of any fee which may be prescribed by the agency in custody of your credit information.

### **Your right to dispute incorrect credit information**

This means that if your credit report which was disclosed to the credit provider in response to the application for credit made by you, and such credit report contain incorrect information, you then have the right to challenge such credit report according to the procedures provided under the Act.

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NCCC

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

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