
Consumer Awareness on the Law Combatting Misleading Marketing of Dietary Supplement Products amidst the Spread of the Covid-19 Pandemic in Malaysia

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Abstract

Dietary supplements hold a huge profit potential, according to the global health sector market. The number of supplements available to consumers has increased dramatically, owing to changes in consumer perceptions that supplements aid in the prevention of diseases. Consumers lose transparency in knowing the process, content, and components of dietary supplement products as the supplements sector expands with innovations and new technologies. They are exposed to a variety of concerns associated with dietary supplement items, including safety, efficacy, and quality. Malaysian consumer protection framework provides for resources of protection for the consumer. However, the lack of awareness of the consumer on the availability and actual functions of this platform for them to remedy their grudges and complaints would make the existing consumer protection framework non-functional and less efficient. The level of awareness may also contribute to the determination of the area of concern for the reformation of the recent consumer protection relating to the sales of dietary supplement products. Although dietary supplement market is not new, yet the transformation of this industry in adapting to the newly introduced technology and high dependency of the current consumer to the dietary supplement product calls for the need to reform the existing consumer protection framework. The study intends to analyse consumer awareness of dietary supplement products and the recent consumer protection framework in order to propose reforms to current consumer protection in this area. The study adopts a descriptive approach, data were collected through a pilot study that was conducted with 102 participants within Selangor and Kuala Lumpur. The questionnaires used the Likert scale and were distributed from January 2020 to December 2020 when the world is battling the COVID-19 attack. The questions were prepared in both languages, Malay Language and English Language to aid for better understanding on the part of the participants. The data were analysed using an online quantifying method to finalised the accurate percentage for each issue. The outputs were then described through analytical writing, tables and diagrams.

Keywords: Consumer awareness, Dietary supplement products, Administrative body, Consumer protection.

1. INTRODUCTION

According to the World Health Organization (WHO), more than 2 billion people suffer from vitamin and mineral deficiencies. (WHO report, 2007). In the spread of the COVID-19 pandemic, health becomes the most luxurious property one can own. World population has been resorting to dietary supplement (DS) product to remedy the deficiencies of vitamins, mineral, and boosting up the immune system (Boindala & Lewis, 2019; Loo et al., 2020). Between 2014 and 2020, the dietary supplement market in the Asia Pacific region has shown an increase of 9.1% in growth (Al Tamimi, 2019). As there is a high demand (Bhavani et al., 2020; Loo et al., 2020) in the market for the DS product, the industry players face a highly competitive market that requires them to modify various marketing strategies to sustain the business. Reports (E.Ulate, 2015; Klepacz, 2015; Willis & Stafford, 2016) stated that consumer complaints on the worrying side effects and deceiving marketing of dietary supplement product (Ismail et al., 2020; Kuanysh, 2019; Office of Dietary Supplements, 2020; Persistence Market Research (PMR), 2020; Wolfe, 2000). In addressing these issues, the Malaysian consumer protection framework provides for protection. However, preceding literature shows that studies have been carried out to see consumer's behaviour (Willis & Stafford, 2016), perception (Khalid et al., 2019), the need for legal intervention (Bhavani et al., 2020; Willis & Stafford, 2016) and

perception of the medical practitioner (Hassali et al., 2013). As the number of consumer's claim on being deceived by producers rises, the question that can be asked is whether the consumer understands the actual scope provided under the consumer protection in Malaysia? The hypotheses on this study assumed that lack of awareness of the availability of legal protection exposes the consumer to being deceived by the marketing activities of the dietary supplement producers.

However, the effectiveness of the existing framework can be measured if the consumers are well educated and informed on this framework. The awareness can also assist the government, the policymakers and the industry to improve weaknesses within the protection and industry in ensuring the sustainability and ability to compete globally. The purpose of this study is to research on factors which determine consumer awareness on the consumer protection framework for false marketing of dietary products in Malaysia. Consumer understanding of consumer protection framework has important implications for their perceptions of the actual protection available and the platform for them to resort to in complaining about defective dietary supplements.

2. LITERATURE REVIEW

According to a study conducted by Jones et al. (2021), women expressed a readiness and intention to use health supplementary items even if they did not enjoy them because of the health benefits for their offspring. Many women turn to herbal supplements when they believe that pharmaceutical interventions are either unsafe or ineffective. (Morehead & McInnis, 2020). Boindala & Lewis (2019) highlighted that the consumer resort to health supplement as they acknowledged that the objective of producing health supplement is to substitute the source of nutrients to keep them nourished and healthy. According to similar studies, consumers who are more health-conscious are more inclined to use supplements because the items are linked to healthy habits. (Willis & Stafford, 2016). Due to the modern lifestyle, the dependency on health supplement product has increased as the consumers are more aware of the need to supplement their diets with more nutrition and healthier options.

The study by MacFarlane et al. (2018) undertakes to see the success of changing the willingness to purchase health supplement product that was not based on the importance of clinical trial to the increase of the willingness to purchase based on the result of effectiveness and safety made during the clinical trial. This contributes to increasing the awareness of the consumer on the importance of clinical trial to assure the efficiency and safety of the health supplement product. (Focus on undergraduates). On similar ground, research by Willis & Stafford (2016) seeks to see the reason consumers have an inclination to buy supplements is because of their level of health consciousness or because of been influenced by the supplement advertising. The findings reveal that health consciousness is a major predictor of attitudes toward various nutritional supplements as well as the perceived price of supplements, but that advertisement familiarity is not. According to the survey, approximately two-thirds of consumers in the United States have been exposed to supplement advertising, and supplement promotion frequently causes consumer confusion. In short, it appears that consumer opinions of dietary supplements are substantially influenced by advertising and media. Similarly, E.Ulate (2015) in her thesis emphasised on the increase of internet marketing of health supplement product that promotes health claims but is not always backed up with empirical evidence justifying these claims. According to Klepacz (2015), who studied how manufacturers used packaging and labelling to promote their health supplement product, consumers are increasingly interested to know what is in the food they eat and where it comes from. To do so, they must engage with the product and its packaging. But to what extent does this packaging information - and in particular, packaging pictures, images and symbols - actually mislead or persuade consumers? Khalid et al. (2019) undertakes a study to determine the prevalence of the use of herbal products and dietary supplements and assess public perception regarding these products. The study shows that individuals' opinions about complementary and alternative medicine are mostly determined by their cultural and religious beliefs. The overwhelming majority of respondents believed that herbal products and dietary supplements were safe to consume. However, in the US, the marketing practices used by many suppliers of supplements do not seem aligned with the original intent of the DSHEA, which is the promise of free consumer access to dietary supplements which can help people improve their health (E.Ulate, 2015).

A press release made in the U.S discloses that 84% of American consumers are confident that these supplements are safe, effective, and of good quality. In a study by Syahrul, D., et. al (2020) the study undertakes to examine the usability of fish-based ingredients to create effective health supplementary product. A similar study by Jairoun et al. (2020) approved that fish oil supplements that are among the most widely-used dietary supplements globally, and millions of people consume them regularly. This assumed,

that functional food from fishery products is a food that is considered effective because, in addition to alternative food sources, the nutritional content is very good for health. Other than fish, some studies have also confirmed the usage of traditional knowledge on the creation of modern supplement is well recognised. In their research, Boindala and Lewis (2019) acknowledged that the traditional knowledge and science behind food-related health benefits became apparent in the last three decades. Clinical trials have been conducted to demonstrate the efficacy of the active components, bioactive compounds, and commonly utilised botanicals.

The multiplicity of food products, including medicinal type formats, such as health supplements, containing plant, herbs, or novel ingredients, adds a new level of complexity to regulations, according to Boindala & Lewis (2019) in their paper on the development of regulation governing health supplements in India. The emergence of this new food format poses a regulatory challenge to distinguish them from drugs (Ismail et al., 2020). Harmonization of law, fair trade practise, population exposures to chemicals and toxins, foodborne illness, growth in Non-Communicable Diseases (NCDs), innovative substances, new technology, and a legacy of regulatory practise are all examples of regulatory issues. While regulatory and legal issues will always exist, scientific research's position in the regulatory context becomes increasingly important. In an article written by Palmer (2014) that was based on the incident that had ended the life of a young military officer who had consumed hazardous health supplementary product that was found in some workout and supplements. This article offers information on the U.S federal regulations controlling the manufacture, distribution, and removal of dietary supplements in the U.S., and discusses the role of the U.S. Food and Drug Administration (FDA) in dealing with supplement safety concerns. Jairoun et al. (2020) while studying on fish oil-based supplement affirmed that there should be a high level of inspection and control regarding authenticity, purity, quality, and safety in the processes of production and supply of dietary supplements. According to a study by Khalid et al. (2019), a major amount of Pakistan's supplement business is unregulated, implying a critical need for stronger government monitoring to protect public safety. The thesis by Klepacz (2015) interestingly highlighted the contradiction of the legislator objective with the marketers objective in supplying information to the consumer. The legislator targeted informational description to assist the consumer to make an informed decision and on the opposite, the marketer's opted transformational information that will generally attract the consumer although it can sometimes be misleading.

This could be one of the most significant opportunities for manufacturers to enter the ASEAN market. Traditional Medicines and Health Supplements Product Working Group (TMHA PWG) has a particular unit that assists manufacturers in understanding these countries' regulatory procedures. Regardless of a country's unique regulations, manufacturers can adhere to the standards and harmonised guidelines established by this working group. This article is the first to outline the regulatory process and requirements for international business developers looking to enter the ASEAN market with a new nutraceutical product. (Boindala & Lewis, 2019).

Some other studies (Ismail et al., 2020; Kuanysh, 2019) affirmed on the worrying reports on the side effects of consuming health supplementary product that needs delicate reformation of the existing law. While many dietary supplements are safe to use, those marketed for weight loss and muscle building are frequently laced with illegal substances such as steroids and prescription pharmaceuticals, as well as containing toxic concentrations of legal substances. Brown (2017) identify that the common types of dietary supplements are vitamins or mineral supplements, speciality supplements, botanicals/herbs, and sports supplement (Thelen, 2015) and three main categories that are commonly associated with the medical problem are products for sexual enhancement, weight loss and sports performance. The U.S. Food and Drug Administration only loosely regulate the safety of these products, and they are easily accessible to youth. The study proposed an improved regulatory structure around the sale of the weight-loss and muscle-building dietary supplements to youth in Massachusetts municipalities.

3. OBJECTIVE

The purpose of this study is to research in determining the consumer understanding and awareness on the consumer protection framework for false marketing of dietary product during the spread of COVID-19 in Malaysia. The study outline the framework for consumer protection related to dietary supplement products that consist of the relevant laws and administrative body.

4. RESEARCH METHODOLOGY

The study takes a descriptive approach; data were gathered via a pilot study with 102 participants in Selangor. The consumer that participated in the study were those with qualified tertiary education who are living in Selangor. The questionnaires use Likert scale and were distributed from January 2020 to December 2020 when the world is battling the COVID-19 attack. The questions were prepared in both languages, Malay Language and English Language for better understanding on the part of the participants. The data were analysed using an online quantifying method to finalised the accurate percentage for each issue. The outputs were then described through analytical writing, tables and diagrams.

5. SIGNIFICANCE

The findings of this study may be useful to policymakers and business in reforming the consumer protection framework in this industry.

6. FINDINGS AND DISCUSSIONS

The participants that took part in this survey consisted of consumers aged between 18-55 years old. Out of this number, 69.9% are female and the rest are male. The majority were Malays (92.2%) embracing the religion of Islam (97.1%). Single individuals form a greater percentage in this group of participants (52%) while 48% were married. All participants reported having consumed dietary supplements at some point, but during the survey, 72.6% were non-users of DS products and 32.3% were taking them at the time of the survey. The questions were directed to uncover consumer awareness through their pre-purchasing activities that tested their understanding of the definition of DS products, consumer protection law governing DS products and their pre-purchasing activities.

a. Basic understanding and knowledge on the meaning of Dietary Supplement Products (DS products)

The findings showed that although participants are not sure of the actual meaning of dietary supplements (more than 89.9%), but the majority had a basic knowledge of the laws provided under the Malaysia consumer protection framework (nearly 50%). The participants were required to identify whether the DS product is a food, medicine or a mixture of food and medicine product. They were also asked to identify the function of DS products that was divided into a curing agent or preventive agent.

Nearly half (42.2%) participants categorised dietary supplements as a food-based product, and the balance number of participants categorised DS product as medicine and drugs. The percentage is slightly higher, (47.1%) of participants categorised DS product as a mixture of food and drug products. It can also be assumed that the percentage for participants that have a neutral understanding of the category of DS product is an inclination that they were not sure of the actual meaning of DS products.

Table 1: Consumer's Understanding on the category of DS Products

Category of DS Products	Consumer's Understanding		
	Agree	Neutral	Disagree
Food-Based	42.2%	19.6%	38.2%
Drug-Based	30.5%	27.5%	42.2%
Food & Drug Mixture	47.1%	22.5%	30.3%

Table 2: Consumer's Understanding on Functions of DS product.

Questions	Consumer's Understanding		
	Agree	Neutral	Disagree
Dietary supplements may help to prevent diseases	44.1%	29.4%	26.4%
Dietary supplements may help to cure diseases	25.5%	26.5%	48%

b. Consumer awareness of the consumer protection law governing DS products.

In this area, the predictor variables question aims at measuring consumer awareness based on the questions that may uncover their level of awareness on available protections for consumers in Malaysia. The majority of 81.4% knows that they are consumers. The factor that may contribute to this high percentage may be connected to their level of education as a majority of the respondents possesses at least an undergraduate level of academic qualification (Figure 1/ Table 2). The awareness is later tested using two time-based evaluation, their pre-purchasing action and post-purchasing action.

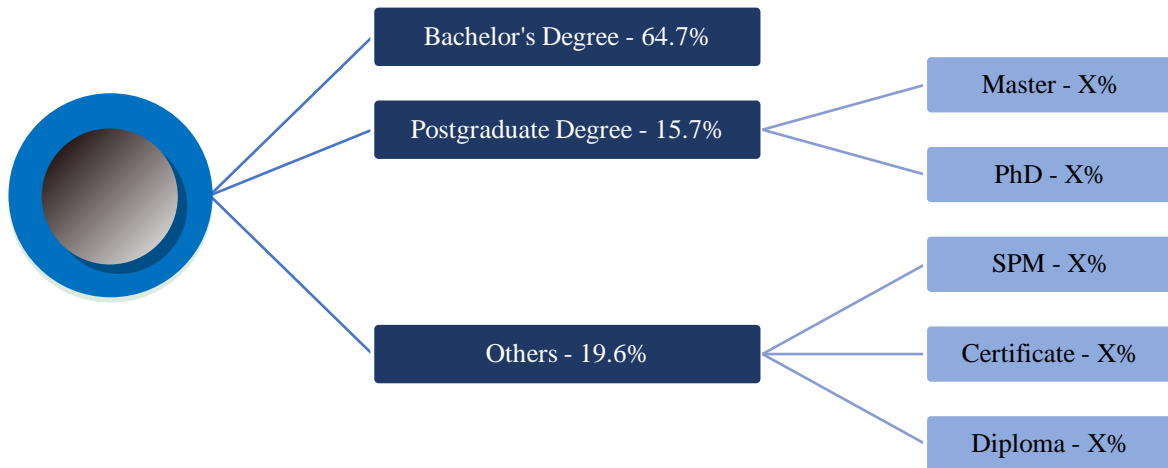


Diagram 1: Consumer’s level of education

For pre-purchasing activities, respondents were asked whether they made a search for relevant information of the dietary supplement product. The information that they rely on would be the ingredients described scientifically or the testimonies attached to the DS product that will influence their purchasing behaviour. Do they utilise the information that they gather in their decision to purchase? Participants were asked on their awareness on the principle of *caveat emptor* (Buyer must beware). As the selected participants are general, the question was made in a simplified manner asking if they search for any information about the dietary supplement before deciding to purchase. This will show the level of understanding of the requirement to be protected under the current consumer protection laws. Table 3 shows that a majority of 75.5% decided to purchase the dietary supplement product based on the testimonies made by previous customers. Thus, it can be inferred that the information that these participants search was the testimonial of the previous customer. The analysis of data shows that although 88.3% search for information of DS product before purchasing, the data that they search for is more of the testimonies rather than the ingredients described on the product.

Table 3: Consumer’s pre-purchasing activities

Pre-Purchasing Activities	Consumer’s Agreement		
	Yes	Neutral	No
Search for information on the product before purchasing	88.3	10.8	0.9 %
Reliance on testimonies of previous customers	75.5 %	14.7%	9.8 %

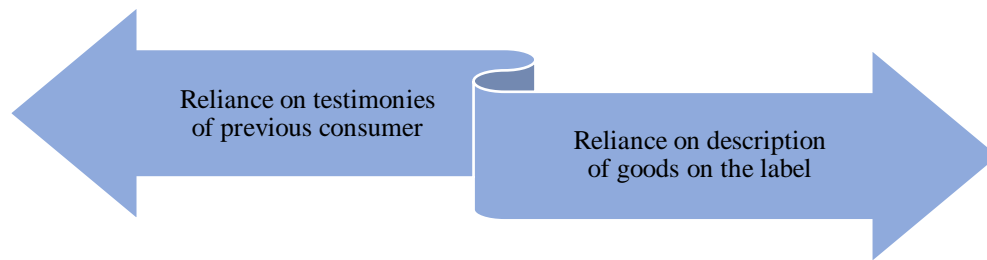


Diagram 2: Consumer's pre-purchasing reliance behaviour

For post-purchasing activities, 56.9% participants answered in the affirmative that they will return the defective DS product to the producer and 24.5% said they will lodge a report through any available platform if they discover false claims of the DS product. It can be analysed that the consumer prefers to return the goods rather than to lodge a report.

Table 4: Consumer's post-purchasing activities

Post-Purchasing Activities	Consumer's Agreement		
	Yes	Do nothing	No
Return defective DS product to the producer	56.9%	26.5%	26.7%
Lodged report through various platforms (police report, online consumer complaint)	24.4 %	33.3%	42.2%

Generally, the data affirmed that the participants do not have sound knowledge of the ingredients or components of DS products. This will contribute to their misleading understanding as to the laws that govern the DS products. Based on the findings of the pre-purchasing and post-purchasing behaviour of the participants, it can be summarised that the majority of the participants have a fair understanding of their right under the Malaysian consumer protection law.

Consumer Awareness on the Administrative Body and Adjudicatory platform Safeguarding Consumer Protection

Questions on this area are directed towards the respondents' knowledge of the administrative body governing consumer protection relating to DS product in Malaysia. The list of Ministries were given for them to select and the basic function of the ministry was asked. Majority of the participants identified the Ministry of Health, Ministry of Domestic Trade and Consumer Affairs and Ministry of Agriculture and Agro-Based Industry as the relevant ministry governing dietary supplement products. This finding is accurate as these are the three bodies that have jurisdiction to govern matters relating to Dietary Supplement products. The Ministry of Health and Ministry of Agriculture and Agro-Based Industry monitors and control the registration and auditing process of either food-based or drug-based product and the Ministry of Domestic Trade and Consumer Affairs control and monitors the sales and post-surveillance of dietary supplement products. The participants were also asked on their knowledge regarding the Consumer Tribunal. Diagram 2 indicates that 70.6% of the participants know that the Consumer Tribunal is an adjudicatory body that aids the consumer to claim for damages and compensation from the manufacturer or supplier. It is a platform where the consumer may resort to for any complaint regarding false marketing of DS products. Diagram 3 further explains the perception of the consumer on the Consumer tribunal. 69.6% of the participants agree that using consumer tribunal as a complaint platform to resolve their dispute is faster, less expensive, and easier as compared to a court trial.

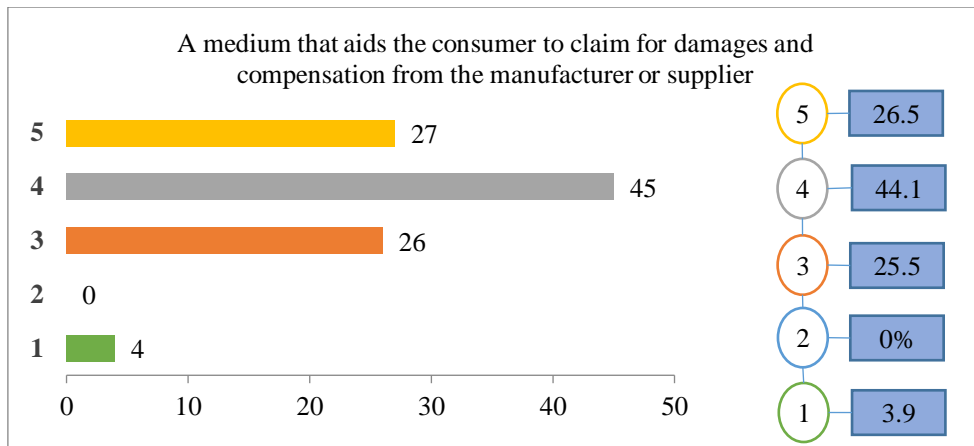


Diagram 3: Consumer knowledge of Consumer Tribunal

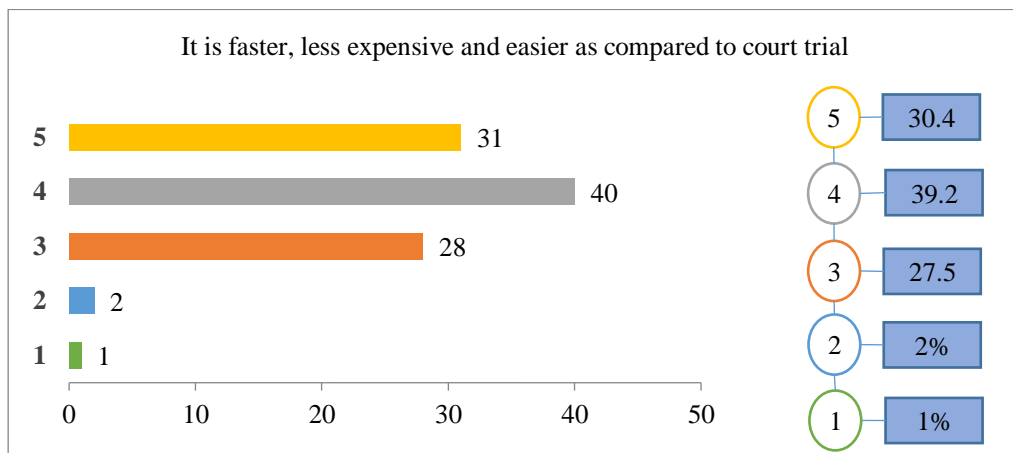


Diagram 4: Consumer's perception on Consumer Tribunal

7. CONCLUSION

The spread of COVID-19 has alarmed the world population on the importance of taking care of one's health. Although the dietary supplement industry has existed in this country for a long time, the consumer perception and awareness on the importance of these products seem to increase rapidly during the spread of this pandemic. Purchasing and consuming an abundance of dietary supplement products that are market through the traditional store and online platform must be made with caution. There are reports on false and deceiving marketing of dietary supplement products. The study uncovers consumer awareness on the consumer protection law in Malaysia that requires them to first know the meaning of dietary supplement before they can accurately resort to the protection offered. In summary, the study suggests some revision of the current consumer protection law that includes the definition, categorisation, and jurisdiction of the relevant ministries. There is also the need for planning to elevate consumer awareness on the appropriate medium to channel their claim on false marketing of dietary supplement products in Malaysia.

ACKNOWLEDGEMENT

The authors wish to thank Research Management Centre, Office of the Vice Chancellor for Research and Innovation (TNCPI), Universiti Teknologi MARA for funding and managing this project under the BESTARI grant (600-IRMI/DANA 5/3/BESTARI (065/2017)).

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