



**CONSUMER PROTECTION  
IN MUSLIM FRIENDLY HOSPITALITY SERVICES  
WITH SPECIAL REFERENCE TO TRAVEL AGENCIES  
SERVICES**

**BY**

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## ABSTRACT

Muslim friendly or *Shari'ah* compliant hospitality services have emerged in recent years as part of the development of global halal industry. Malaysia has become one of the key players in this fast-growing and lucrative market and has been rated the world's top Muslim-friendly holiday destination for the past few years by various rating agencies. As one of the most important service providers for tourism and travel related activities, the travel agencies play an important and essential role in worldwide tourism development and their role has been expanded in recent years with the global growth of Muslim friendly tourism and hospitality services. Despite this remarkable development, there have been many consumer complaints related to hospitality services in Malaysia. In fact, consumer claims against the travel agents were the top in the list of services cases filed in the Tribunal for Consumer Claims (TCC) for the past many years. In 2014, the TCC received 1,585 complaints against travel agencies especially related to *umrah* package. Thus the question arises as to whether the rights of Muslim travellers are well protected under the relevant laws in Malaysia. Adopting a doctrinal and content analysis methodology, the study aims to identify consumers' issues in relation to travel agencies services in Malaysia. The main focus is to examine the relevant framework which include relevant laws, regulations, guidelines, codes of ethics which are related to Muslim friendly travel agencies services. The laws including Tourism Industry Act 1992 and Tourism Industry (Tour Operating Business and Travel Agency Business regulations 1992), MATTA Code of Ethics and Malaysian Standard MS 2610:2015 Muslim Friendly Hospitality Services-requirements. The purpose is to analyse the adequacy of the existing consumer protection laws in protecting Muslim travellers. The study discovers the lacunae in the existing legal protection for consumers which renders the protection to be inadequate. Hence, the study proposes recommendations to improve and enhance protection for consumers in dealing with Muslim friendly travel agencies.

## ملخص البحث

انتشرت في السنوات الأخيرة خدمات الضيافة المطابقة للشريعة والصديقة للمسلمين كجزء من تطوير قطاع الحلال العالمي. أصبحت ماليزيا أحد الأطراف الرئيسية في هذا السوق المريح والسريع النمو، وصنفت ماليزيا في السنوات الأخيرة من قبل العديد من وكالات التصنيف كأحد الوجهات السياحية الصديقة للمسلمين الأولى عالمياً. تعد وكالات السفر أحد أهم موفري الخدمات السياحية والنشاطات المتعلقة بالسفر، وبذلك تلعب هذه الوكالات دوراً مهماً وضرورياً في تطوير السياحة العالمية، وقد تم تمديد دور هذه الوكالات في الأعوام الأخيرة في ظل انتشار السياحة وخدمات الضيافة الصديقة للمسلمين. على الرغم من التطور البارز، كان هناك العديد من الشكاوى المتعلقة بخدمات الضيافة في ماليزيا. أتت شكاوى المستهلكين ضد وكالات السفر في أعلى قائمة القضايا المرفوعة المتعلقة بالخدمات في محكمة ادعاءات المستهلكين في السنوات الأخيرة. تلقت محكمة ادعاءات المستهلكين في عام 2014 ما يقارب 1,585 شكوى ضد الوكالات السفرية، وخاصة بتلك المتعلقة برحلات العمرة. إذن فالسؤال المطروح هنا هو ما إذا كانت حقوق المسافرين المسلمين في ماليزيا محمية تحت القوانين المتعلقة أم لا. و تشمل هذه القوانين قانون صناعية السياحة الحلال لعام 1992، وأيضاً (MATTA) المقاييس الأخلاقية و (MS 2610:2015) خدمات السيحة الحلال بماليزيا. هدفت الدراسة إلى التعرف على مشاكل المستهلكين المتعلقة بوكالات السفر باستخدام طريقة تحليل المحتوى والمنهج. ركز البحث عموماً على دراسة القوانين، والتنظيمات، والتوجيهات، وقواعد الآداب المتعلقة بخدمات وكالات السفر الصديقة للمسلمين، وذلك بغرض تحليل كفاءة القوانين الحالية لحماية المسافرين المسلمين. اكتشفت الدراسة وجود ثغرات في الحماية القانونية الحالية للمستهلكين، مما يجعلها غير كافية. وبالتالي، أوصت الدراسة ببعض المقترحات لتحسين حماية المستهلكين في التعامل مع وكالات السفر الصديقة للمسلمين.

## APPROVAL PAGE

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Trade Descriptions (Definition of Halal) Order 2011

## LIST OF ABBREVIATIONS

ADR	Alternative Dispute Resolution
BUMITRA	Bumiputera Travel and Tour Agents Association
CCU	Corporate Communication Unit
CPA	Consumer Protection Act
DSM	Department of Standard Malaysia
FOMCA	Federation of Malaysian Consumer Association
GMTI	Global Market Travel Index
ITC	Islamic Tourism Centre
JAIN	Department of State Religious Affairs
JAKIM	Department of Islamic Development Malaysia
MAIN	State Islamic Religious Council
MAS	Malaysia Airline System
MATTA	Malaysian Association Tour and Travel Agents
MCAB	MATTA Consumer Affairs Board
MCTA	Malaysian Chinese Travel Association
MDTCC	Ministry of Domestic Trade, Co-corporative and Consumerism
MFHS	Muslim Friendly Hospitality Services
MOSTI	Ministry of Science, Technology and Innovation
MOTAC	Ministry of Tourism and Culture
MS	Malaysian Standard
NCCC	National Consumer Complaints Centre
PBUH	Peace be upon him
ROC	Registrar of Companies
SPAD	Land Public Transport Commission
TCC	Tribunal Consumer Claims
TDA	Trade Description Act
TIA	Tourism Industry Act

## TRANSLITERATION

*Before using this Table, you must first install the AHT Times New Arabic fonts.*

Table of the system of transliteration of Arabic words and names  
used by the International Islamic University Malaysia.

b	=	ب	z	=	ز	f	=	ف
t	=	ت	s	=	س	q	=	ق
th	=	ث	sh	=	ش	k	=	ك
j	=	ج	Î	=	ص	l	=	ل
Í	=	ح	Ì	=	ض	m	=	م
kh	=	خ	Ï	=	ط	n	=	ن
d	=	د	Ð	=	ظ	h	=	ه
dh	=	ذ	‘	=	ع	w	=	و
r	=	ر	gh	=	غ	y	=	ي

Short: a = اَ ; i = اِ ; u = اُ

Long: É = اِ ; Ê = اِي ; Ë = او

Diphthong: ay = اِي ; aw = او



# **CHAPTER ONE**

## **INTRODUCTION**

### **1.1 BACKGROUND OF STUDY**

Muslim friendly or Shari'ah compliant hospitality services have emerged in recent years as part of the development of global halal industry. Malaysia has become one of the key players in this fast-growing and lucrative market. It has attracted 200,000 visitors especially from the Gulf countries to Malaysia in 2014 (Tourism-review.com, 2014). With the increasing number of Muslim visitors, Malaysia has been listed as the world's top Muslim friendly destination according to the research conducted by CrescentRating consultancy in 2013 (New Strait Times, 2014). In fact, even after the unfortunate air mishaps involving Malaysia Airline planes in 2014, Malaysia is still one of the favourite destinations for Muslim travellers, according to a survey carried out by CrescentRating and MasterCard (Tourism-review.com, 2014). This survey involved 81 non-Muslim and 29 Muslim destinations where Malaysia was ranked as the most preferred holiday destination for Muslims, followed by Turkey, the UAE, Saudi Arabia, Qatar, and Indonesia. Malaysia has again been rated the world's top Muslim-friendly holiday destination by the Global Muslim Traveller Index (GMTI) in 2015. With this remarkable development, Malaysia can now be renowned as the world top provider of Muslim friendly hospitality services which cater the needs of Muslim travellers from all over the world (Islamic Tourism Centre, 2014).

Generally, Muslim friendly hospitality services is defined as any products or services in the travel and tourism industry which are guided by Shari'ah principles

which cater to or provide facilities suitable for Muslim travellers<sup>1</sup>. There are three important components in the hospitality services, namely travel agencies, accommodation provider and tour guide. In this regard, a travel agency is one of the most important service providers for tourism and travel related services as it functions as the retailers of travel products and services, which are operated or offered by the principals or tour operators (A. K. Bhatia, 2006). Basically, they are offering three types of tour packages which are domestic, inbound and outbound packages. Often times, the domestic package is provided to fulfil the needs of Muslim travellers, including offering meals from halal certified restaurant to Muslim guests. The similar scenario is observed in inbound packages, which offer Muslim friendly hospitality services to fulfil the needs of the Muslim majority population of Malaysia. However, outbound packages create more challenges and obstacles to travel agencies due to the geographical cultural boundaries. Most of travel agencies in Malaysia conduct both conventional and Muslim friendly services because they have to cater the needs of both Muslim and non –Muslim travellers. Thus, with the increasing Muslim travellers to Malaysia, the industry should be able to provide services that are suited with the consumers’ needs, as well as to preserve the consumers’ rights.

On the other hand, despite the remarkable development of the tourism industry in Malaysia, there were many complaints on tourism related services made to the Ministry of Tourism and Culture and the Tribunal for Consumer against the travel agencies over the last few years. The complaints on travel agencies ranked first on list of services cases filed in the Tribunal for Consumer Claims in 2013, 2014 and 2015 (MDTCC, 2013, 2014 & 2015). Similarly, the National Consumer Complaints Centre (NCCC) had received the many consumer complaints on matters related to travel and tour services

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<sup>1</sup> MS2610:2015, Malaysian Standard; Muslim Friendly Hospitality Services – requirements, 2015

in 2014, compared to the other categories such as housing and real estate, banking or finance. The complaints include, fraudulent tour packages (including “*umrah*” packages), misrepresentation of advertisements, and poor quality in travel arrangement (NCCC, 2015). This increasing number of complaints against travel agencies confirmed the assertion that their businesses are vulnerable to fraudulent practices (Nuraisyah Chua, 2014).

Therefore, it is timely to study consumer protection issues on the Malaysian tourism industry, with the special emphasis on the travel agent services since most cases have been filed against them. In this regard, although some of the cases occurred in conventional tourism services, they are undoubtedly relevant to Muslim friendly hospitality services. Furthermore, the same principles of consumer protection are equally applicable regardless of the type of services, Islamic or conventional.

## **1.2 PROBLEM STATEMENT**

Consumer protection in Malaysia covers the protection of consumer rights against any malpractices related to trade and commerce in various industries (Wu M. A., 2001). The protection may come in various forms but legal protection appears to be the most important compared to self-protection by consumers and self-regulation by traders. The development of consumer protection in Malaysia is also aimed to provide consumer with fair and efficient complaints mechanism which empower them with the knowledge to protect themselves from traders’ malpractices (Mohamad, 2014). In this regards, the Corporate Communication Unit under the purview of the Ministry of Tourism and Culture (MOTAC) has the responsibility to receive complaints related to tourism industry from tourists. In 2015, the unit received 568 complaints from tourists and the

complaints consist of malpractices of travel agencies or companies, accommodation providers, tourist guides, tourism institutes and training centres, transportation, public transport, hygiene and others (MOTAC, 2016). The complaints also involved cultural promotion agencies and venues including the National Achieve of Malaysia, Istana Budaya, Heritage Department and the National Art Gallery. The statistics on tourist complaints received by the Unit from 2012 until 2015 can be illustrated in the figure 1 below;

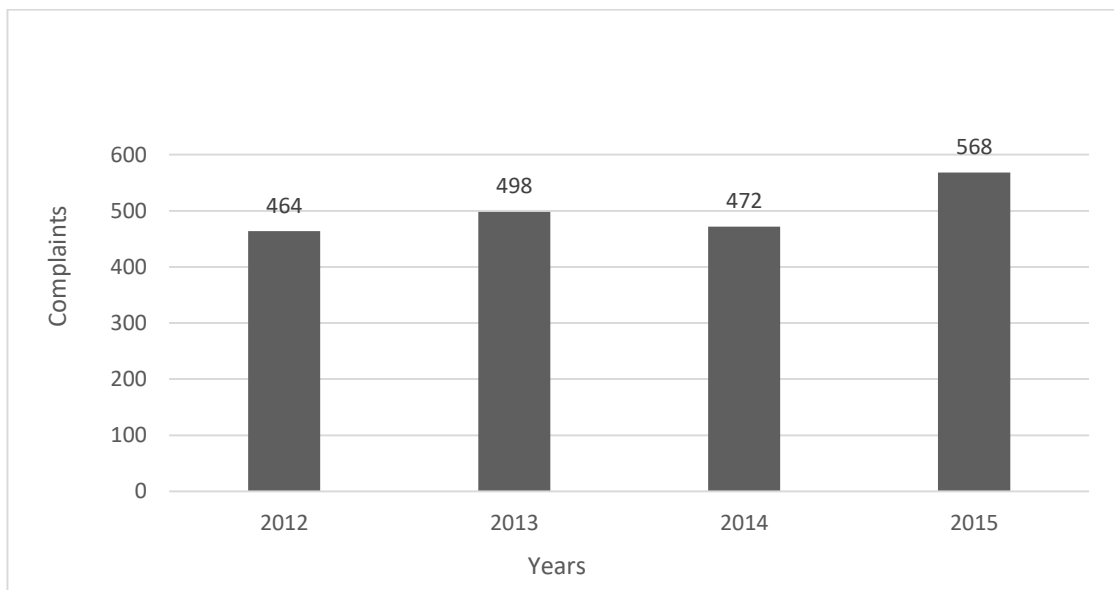


Figure 1: The Statistical Tourism Complaints Receipt 2015<sup>2</sup>

It appears that complaints related to travel agencies services have been one of major consumer complaints in Malaysia for the past many years. The Licensing Division of Ministry of Tourism and Culture (MOTAC), which has responsibility to handle licence related issues has received multiple complaints against travel agencies, accommodation providers, tour guides, tour transportation provides, tourism training institutions, public transportation and others (MOTAC, 2015). According to the Division, the highest

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<sup>2</sup> Source: Corporate Communication Unit, Ministry of Tourism and Culture

number of complaints they received was against the travel agencies, compared to other players in the industry as illustrated in Table 1.

Table 1 : The Number of complaints filed with the Division<sup>3</sup> (2013 – October 2015)

Categories	Years		
	2013	2014	2015
Travel Agency	215	249	282
Accommodation	28	28	17
Tourist Guide	7	18	14
Transportation	0	0	0
Tourism Training Institute	0	0	2
Public Transport	0	3	1
Others	14	6	36

The table also shows that the number of complaints have been increasing gradually from 2012 to 2015. Among common complaints are related to malpractices of travel agencies such illegal agencies, cancellation and fake contracts.<sup>4</sup> Most consumer complaints and disputes on hospitality and travel related matters are filed at the TCC which is the main consumer complain mechanism in Malaysia. Figure 2 illustrates the number of cases filed against travel agencies through the TCC for the past five years.

<sup>3</sup> Source: Complaints Unit, Investigation Enforcement & (Tourism Licensing Division), Ministry of Tourism Malaysia

<sup>4</sup> Monthly Statistic On Total Of Complaint Cases From 2011 Until September 2014, Complaints & Investigation Unit, Licensing Division of Ministry of Tourism and Culture, retrieved 05/02/2015, from <http://www.motac.gov.my/en/download/viewcategory/27-statistik-pelesenan>,

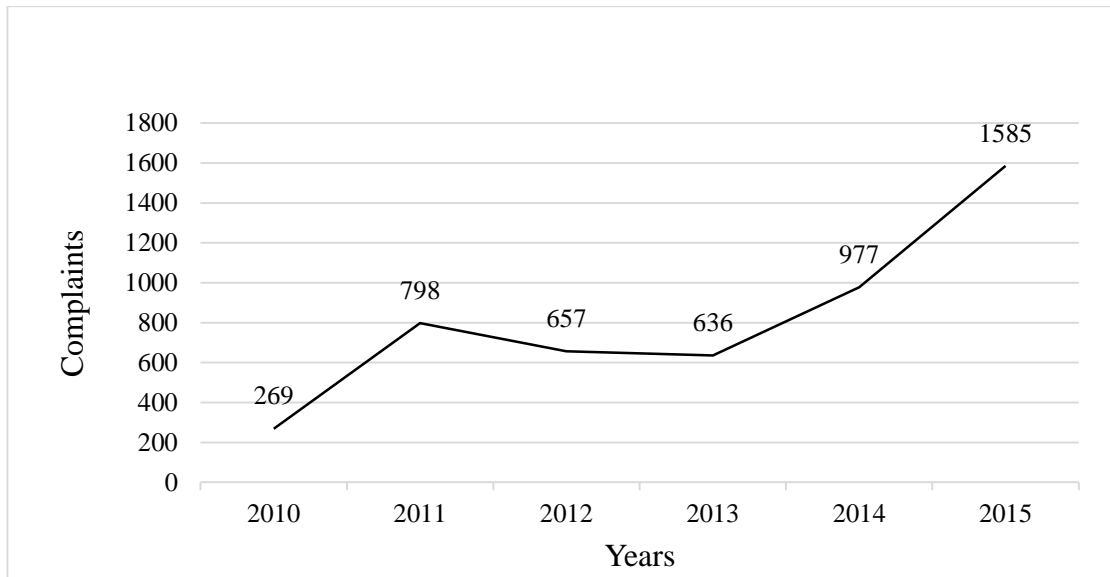


Figure 2 : The Total Number of Consumer Complaints against Travel Agencies 2010 - 2015<sup>5</sup>

The line graph above indicates the total number of consumer complaints against travel agencies from 2010 until 2015. The number of consumer complaints against travel agencies had increased dramatically from 269 in 2010 to 798 in 2011. However, between 2012 and 2013, the complaints had gradually declined from 798 to 636. Meanwhile, in 2014, the graph shows that the complaints had increased sharply from 636 to 977. Surprisingly in 2015, the complaints sharply increased again to 1585 complaints. Thus, it can be concluded that the services of travel agencies have been the major source of dissatisfaction among tourists. Therefore a proper solution should be identified and implemented in order to preserve the interests of consumers and gain their confidence in using the travel agencies services.

In this regard, the MOTAC and the TCC have received many consumer complaints about *umrah* packages which are common types of tour package offered by

<sup>5</sup> Source: Tribunal for Consumer Claims Malaysia, Ministry of Domestic Trade, Co-operatives and Consumerism

Muslim friendly travel agencies. This service has been offered by Malaysian tour agencies for many past year to cater for the religious and spiritual demands of the Muslim community. The increase in complaints related to *umrah* packages is a matter of great concerns and in 2015, the number of complaints on *umrah* packages has increased dramatically, compared to the past four years as illustrated in figure 3.

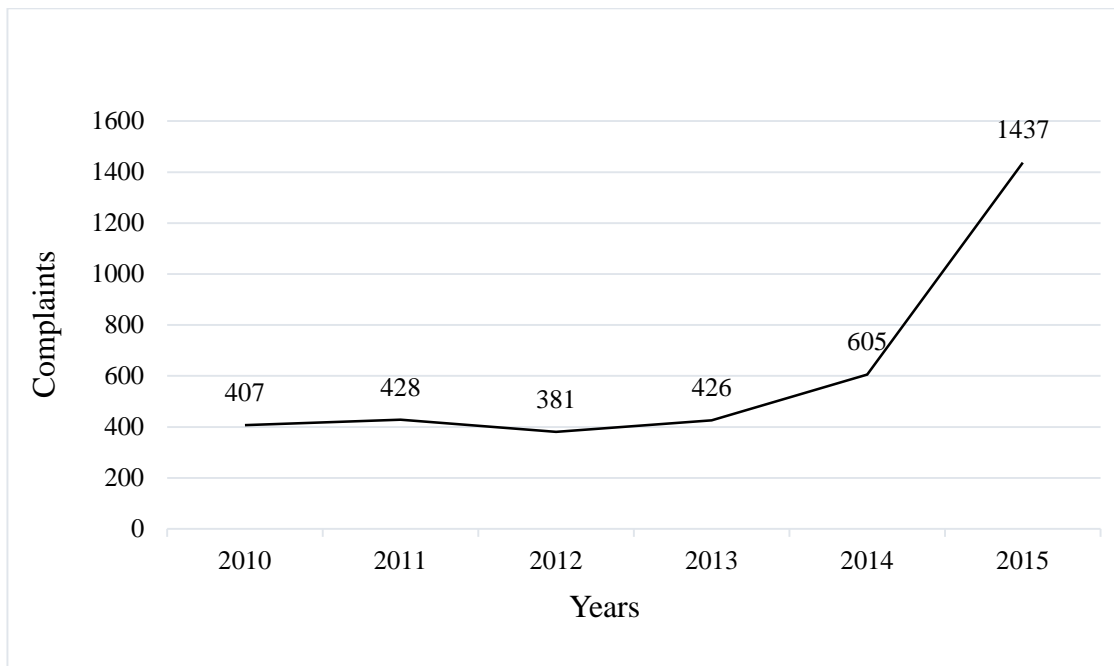


Figure 3: The Total Numbers of Consumer Complaints against *Umrah* packages 2010 - 2015<sup>6</sup>

Figure 3 illustrates the total number of consumer claims received by the Tribunal for Consumer Complaints relating to *umrah* packages from 2010 until 2015. The numbers of the claims rose gradually from 407 to 428 in 2011 and there was a slight decrease in 2012 from 428 to 381. However, in 2013, the complaints had increased gradually from 382 to 426 and followed by a marked increase from 426 to 605 in 2014. The complaints continued to increase sharply in 2015 to 1437 claims. Therefore, it can be seen that

<sup>6</sup> Source: The Tribunal for Consumer Claims Malaysia, Ministry of Domestic Trade, Co-operatives and Consumerism

*umrah* packages is one of the main issue for Muslim consumer and the proper solution should be implemented in order to protect Muslim consumers' rights.

The increasing trend of complaints in tourism industry, as shown by the analyses of the current statistics especially on travel agencies service calls for a study to identify and analyse the real issues before coming up with proper solutions. In this regard, this research is vital for the improvement of consumer protection in the tourism industry generally, and particularly in Muslim friendly hospitality services.

### **1.3 SIGNIFICANCE OF RESEARCH**

The study is a pioneering effort to understand the issues of consumer protection in travel agencies services with special focus on Muslim friendly hospitality services. This research is undeniably important as it will make a great contribution to the stakeholders of tourism industry, including legislative bodies, enforcement agencies as well as travel agencies as the service providers. Ultimately, the consumers or travellers/ tourists as the main stakeholders of this thesis will have better protection when dealing with the travel agencies. The proposed legal reform and guidelines for the Muslim friendly travel agencies services can assist the industry in providing services that suit the needs and expectation of Muslim travellers. The study sheds light on the further improvement of the law and policy in enhancing consumer protection in Malaysia and supporting the development of Muslim friendly hospitality services.