OUTLINE

1. What is E-commerce? Why Protection Consumers?
2. Principles of Consumer Protection in E-Commerce
3. Legal Framework in Malaysia
4. Issues and Challenges
Definitions

Electronic
“the technology of utilizing electrical, optical, magnetic, electromagnetic, biometric, photonic or other similar technology” [ECA 2006]

Commercial Transactions
“a single or multiple communications of a commercial nature, whether contractual or not, which includes any matters relating to the supply or exchange of goods or services, agency, investments, financing, banking and insurance.” [ECA 2006]

E-Commerce
The practice of buying and selling goods and services through online consumer services and of conducting other business activities using an electronic device and the Internet. [Black’s Law Dictionary 10th Ed.]

E-Transaction
An e-commerce transaction is the sale or purchase of goods or services, conducted over computer networks by methods specifically designed for the purpose of receiving or placing of orders.
The goods or services are ordered by those methods, but the payment and the ultimate delivery of the goods or services do not have to be conducted online. An e-commerce transaction can be between enterprises, households, individuals, governments, and other public or private organisations. [OECD Glossary]
E-Commerce Enabling Ecosystem

DIGITAL LIFESTYLE
1. Information society – Digital natives
2. Globalised marketplace
3. Physically restricted, socially connected

BIG DATA
1. Personal life and preferences
2. Digital Communications
3. Movement, location data
4. 24-hours news flow

GADGET & INFRASTRUCTURE
1. Internet – Web 2.0
2. Mobile internet
3. Internet of things
4. Artificial intelligence

NEW ECONOMY
1. Digital advertisement
2. Appicication
3. Emerging big players: Google, Facebook, Amazon etc.
4. Emerging payment alternatives & cryptocurrencies
A Minute on the Internet in 2020

Estimated amount of data created on the internet in one minute

- 404,444 hours of video streamed by users
- 2,704 app installations
- 6,659 packages shipped
- 208,333 participants in meetings
- 319 new users gained
- 500 hours of video uploaded by users
- 347,222 stories
- 52,083 users connected
- 41.7m messages shared
- 28 new tracks added to library

Source: Visual Capitalist
**Digital Around the World in 2020**

- Total Population: 7.75 Billion
  - Urbanization: 55%
- Unique Mobile Phone Users: 5.19 Billion
- Internet Users: 4.54 Billion
- Active Social Media Users: 3.80 Billion

**Share of Time Spent in Mobile Apps by Category**

- Average Time Spent Using Mobile Devices Each Day Worldwide, with Share of Time Spent in Top Mobile App Categories
  - Total: 3H 40M
  - Social & Communications: 50%
  - Video & Entertainment: 21%
  - Games: 9%
  - Other Apps: 19%

**E-Commerce Spend by Category**

<table>
<thead>
<tr>
<th>Category</th>
<th>Spend (in USD Million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fashion &amp; Beauty</td>
<td>771.0</td>
</tr>
<tr>
<td>Electronics &amp; Physical Media</td>
<td>851.0</td>
</tr>
<tr>
<td>Food &amp; Personal Care</td>
<td>483.0</td>
</tr>
<tr>
<td>Furniture &amp; Appliances</td>
<td>553.0</td>
</tr>
<tr>
<td>Toys &amp; Hobbies</td>
<td>486.0</td>
</tr>
<tr>
<td>Travel Including Accommodation</td>
<td>2,759.0</td>
</tr>
<tr>
<td>Digital Music</td>
<td>30.0</td>
</tr>
<tr>
<td>Gaming</td>
<td>100.0</td>
</tr>
</tbody>
</table>

**Digital Malaysia Outlook:**

- Ecosystem is ripe... digital population, connectivity, devices, usage

**Digital Population**
- 68% of the population are active internet users
- 20.6m active internet users (out of 30.5m population)

**Connectivity**
- 30% of households have 2.2m total connections
- 143% of population have 43.4m total connections
- 14% of unique users have 22.7m unique users

**Devices**
- 71% of active internet users have Smartphones
- 35% have a Laptop/desktop
- 1% have a Wearables

**Usage**
- 77% of active internet users use average of 1.9 connection per day
- 4 hours 38 mins daily internet usage
  - PC/tablet: 3 hours 37 mins
  - Mobile: 3 hours 27 mins

Source: Malaysia digital outlook (Jan 2018) - McKinsey, and Google analytics
Slow Performance of Online Business

“Businesses in Malaysia have adopted digital technologies less readily than the government and population.”

“…digital divide where Malaysia lags behind international peers in digital adoption by businesses.”

Only 62% of businesses are connected to the Internet, 46% has fixed broadband and 18% have a web presence.

“key barriers related to digital connectivity, entrepreneurship and taxation”

Creating a dynamic ecosystem for the digital economy to improve the infrastructure, regulations, skills and public finance.

Increasing digital transactions “and digital cash” requires overhauling regulations and increasing consumer comfort.

Ongoing tensions between data protection and its legitimate use for commercial purposes...

Lack of data sharing, often cautiously approached due to security concerns.

Cybersecurity cases rise by 82.5%

MORE people are online now – be it for business, education, entertainment, socialising or working from home due to the movement control order (MCO).

But the higher usage of technology also means bigger risks of running into cyber threats.

About 352 accounts on the video conferencing app Zoom were compromised on Wednesday, including a healthcare provider in the US and seven educational institutions.

There has yet to be any report on hacked Zoom accounts from Malaysia.
KESAL....Hazirul menunjukkan lesung batu yang diterima selepas membeli telefon bimbit secara dalam talian.
The Principles of Consumer Protection in e-Commerce (OECD 2016)

**Transparent and Effective Protection**
Governments and stakeholders should work together to achieve such protection to address the special circumstances of e-commerce, including for children and vulnerable or disadvantaged consumers.

**Fair Business, Advertising and Marketing Practices**
Businesses should not make any representation, or omission, or engage in any practice that is likely to be deceptive, misleading, fraudulent or unfair.

**Fair Online Disclosure**
Information about the business, about the goods/services, and about the transaction processes.

**Confirmation & Payment Process**
The point at which consumers are asked to confirm the transaction must be clear and unambiguous. Payment process must be clear, secure and user-friendly.

**Dispute Resolution and Redress**
Consumers should be provided with meaningful access to fair, easy-to-use, transparent and effective mechanisms to resolve domestic and cross-border e-commerce disputes in a timely manner and obtain redress, as appropriate, without incurring unnecessary cost or burden.

**Privacy, Security and Consumer Education**
Governments and stakeholders should work together to educate consumers, government officials and businesses about e-commerce to foster informed decision making.
E-Commerce Legal Framework

- Consumer Protection Act 1999
- Consumer Protection (Electronic Trade Transaction) Regulations 2012
- Personal Data Protection Act 2010
- E-Commerce Act 2006
- Evidence Act 1950
- Computer Crimes Act 1997
- Penal Code
- Communications & Multimedia Act 1998
- E-Commerce Act 2006
- Evidence Act 1950

Admissibility & Enforceability of E-transaction

Penalties for Abuse

Data Privacy & Security

Consumer Protection

- Consumer Protection Act 1999
- Consumer Protection (Electronic Trade Transaction) Regulations 2012
The Effect of E-Commerce Act 2006

- The legality and admissibility of electronic message [s.5-6]
- The legality and equality of paperless document [s.8]
- The originality of document [s.12]
- Formation of e-contract: Offer and Acceptance [s.7]
The Malaysian Court Enforces Digital Transaction:
Yam Kong Seng & Anor v Yee Weng Kai [2014]

- Plaintiff took legal action against defendant because the latter did not pay his debt. Defendant denied.
- The evidence of the acknowledgement of debt was based on the SMS sent by defendant to plaintiff’s phone. The SMS message clearly acknowledged the debt.
- Defendant argued that SMS cannot be considered as a written document

DECIDED:
A message from an SMS, with all the attributes of [s.8 ECA 2006] being present viz accessibility, intelligible and extractable for subsequent reference, such an electronic message is as good as in writing.
CONSUMER PROTECTION (ELECTRONIC TRADE TRANSACTION) REGULATIONS 2012

- Disclosure of identification
- Maintenance of Business Record for 2 years
- Ratification of Errors
- Acknowledgement of Receipt
Data user who contravenes the above Principles commits an offence and shall, on conviction, be liable to a fine not exceeding three hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.
Right of Data Subjects under PDPA 2010

Right of Access to Personal Data [s.30] → Right to Correct Personal Data [s.34] → Right to Withdraw Consent to Data Processing [s.38]

→ Right relating to Direct Marketing [s.43] → Right to Prevent Distress/Damage [s.42] → Right relating to Sensitive Data [s.40]
Key Takeaways

01 Fundamental principles of consumer protection still apply

02 As the consumers increasingly migrate, law has to adapt

03 Business, legal and technical stakeholders play critical role

04 Data protection is crucial for future e-commerce

05 E-commerce is borderless, so should the protection be