

Enforcing CSR among Food Manufacturers in Malaysia Through Legal and Institutional Framework

Penguatkuasaan CSR dalam Kalangan Pengeluar Makanan melalui Undang-Undang dan Kerangka Institusi

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ABSTRACT

Corporate Social Responsibility (CSR) is a concept in which corporations take into account the interest of the society in four areas of responsibility namely economic, legal, ethical, and philanthropic. In the area of food manufacturing, corporate social responsibility plays a vital role by ensuring that food is healthy and in adherence to safety standards. The Food Act 1983 and Food Regulations 1985 play an important role in enforcing corporate social responsibility amongst food manufacturers. Institutional framework in Malaysia such as, Ministry of Health, Food and Safety Quality Division and FOSIM were established to ensure that food-processing activities are according to the required hygiene and safety standards. It is discovered through National Consumer Complaint Centre reports that the enforcement in food safety needs improvement. The paper also examines the role of non-governmental agencies, namely, the Consumer Association of Penang and the National Consumer Complaints Centre, in channeling and documenting complaints from consumers to relevant enforcement agencies. This paper intends to analyse the duties of food manufacturers and to identify legislations that enforce CSR amongst food manufacturers. Adopting the content analysis method, this paper will examine the principle of CSR as contained in the Food Act 1983. This paper further discusses the roles of institutional frameworks namely, the Ministry of Health, Food Safety and Quality Division and FOSIM in enforcing corporate social responsibility amongst food manufacturers. This article aims to contribute namely to various stakeholders ie: the government in which CSR policies can be connected to food safety through our hard and soft laws and consumers will be more aware and educated in which they will support food companies that are implementing CSR in their food production. The paper also serves as a guide to food manufacturers as they will be more particular in their CSR efforts to garner more support towards their food products. With a good CSR policy and food safety efforts Malaysia will be able to increase its revenue in import and export of food products.

Keywords: Corporate social responsibility; food law; food safety; food manufacturers, institutional framework.

ABSTRAK

Tanggungjawab Sosial Korporat (CSR) adalah konsep syarikat mengambil kira kepentingan masyarakat dalam empat bidang tanggungjawab iaitu ekonomi, undang-undang, etika, dan kedermawanan. Dalam bidang pembuatan makanan, CSR memainkan peranan penting dengan memastikan makanan adalah sihat dan mematuhi piawaian keselamatan. Akta Makanan 1983 dan Peraturan Makanan 1985 memainkan peranan penting dalam menguatkuasa CSR dalam kalangan pengeluar makanan. Kerangka institusi di Malaysia seperti Kementerian Kesihatan, Bahagian Kualiti Makanan dan Keselamatan dan FOSIM berperanan untuk memastikan aktiviti pemprosesan makanan sesuai dengan piawaian kebersihan dan keselamatan yang diperlukan. Laporan daripada Pusat Pengaduan Pengguna Nasional mendapati bahawa penegakan keselamatan makanan perlu ditingkatkan. Makalah ini juga mengkaji peranan agensi bukan kerajaan, iaitu Persatuan Pengguna Pulau Pinang dan Pusat Pengaduan Pengguna Nasional, dalam menyalurkan dan mendokumentasikan aduan pengguna kepada agensi penguatkuasaan yang berkaitan. Makalah ini bertujuan untuk menganalisis tugas pengeluar makanan dan untuk mengenal pasti pemakai undang-undang CSR dalam kalangan pengeluar makanan. Makalah ini menggunakan metod analisis, meneliti prinsip CSR seperti yang terkandung dalam Akta Makanan 1983. Makalah ini membincangkan peranan kerangka institusi iaitu, Kementerian Kesihatan, Bahagian Keselamatan dan Kualiti Makanan dan FOSIM dalam menguatkuasa CSR dalam kalangan pengeluar makanan. Artikel ini bertujuan untuk memberi sumbangan kepada pelbagai pihak yang berkepentingan iaitu: pihak kerajaan di mana polisi CSR dapat dikaitkan dengan keselamatan makanan melalui undang-undang yang keras dan lembut dan pengguna akan lebih peka dan berpendidikan di mana mereka akan menyokong syarikat makanan yang menerapkan CSR dalam pengeluaran makanan. Makalah ini juga bertujuan sebagai panduan kepada pengeluar makanan kerana mereka akan lebih mengutamakan usaha CSR untuk mendapatkan lebih banyak sokongan terhadap produk makanan mereka. Dengan

dasar CSR dan usaha keselamatan makanan yang baik, Malaysia akan dapat meningkatkan hasil dari import dan ekspor produk makanan.

Kata kunci: Tanggungjawab Sosial Korporat; undang-undang makanan; keselamatan makanan; pengeluaran makanan; kerangka institusi

INTRODUCTION

The idea of CSR is one of the most predominant issues and developments of the 21st Century and this is because in the 21st century the world is exposed to numerous problems that only CSR can cater to. In Malaysia namely, in the food manufacturing industry, food manufacturers play a vital role in CSR by manufacturing food that is healthy and in adherence to safety standards. The Food Act 1983 plays a vital role in enforcing CSR amongst food manufacturers. There are also institutional frameworks in Malaysia namely, the Ministry of Health and Food and Safety Quality Division which plays an important role in ensuring that food processing activities are managed according to the required safety standards. Through an organisation known as Safety Food Information System of Malaysia (FOSIM), which is a sophisticated web system, food sold in Malaysia is monitored to ensure the food is safe for human consumption and in adherence to food quality standards. FOSIM acts as a monitoring mechanism.

Amongst the questions that need to be addressed in CSR are what is the role of a corporation in society? How does a corporation best governed to that end? Accordingly, whose interest does a corporation serve, theirs or the society at large? To whom is a corporation therefore accountable? And what is the best way in regulating CSR? Applying this queries into the realms of food manufacturing the question that needs to be addressed are namely the duties that should be played by the food manufacturers. Thus, what are the CSR of food manufacturers? How can they best serve the society in terms of corporate social responsibility? How far can the law assist in corporate social responsibility as far as food manufacturing is concern?

THE DEFINITION AND RELATIONSHIP OF CSR AND THE LAW

The classic definition of CSR is the idea of “denoting obligations and inclinations, if any of corporations organized for profit, voluntarily to pursue social ends that conflict with the presumption shareholder desire to maximize profit”. Carroll is of the opinion

that CSR is divided into four conceptual levels namely economic, legal, ethical and philanthropic responsibility (Carroll, 1991). Carroll defines economic responsibility as the expectation of the corporation to maximise the profits. Legal responsibility is defined as the obligation of the corporation in compliance with the laws while fulfilling their economic responsibility. Meanwhile, ethical responsibility means that the corporation should behave ethically and morally and philanthropic responsibility refers to the voluntariness of the corporation to be involved in charitable activities for the society. The Economists Report in 2008 states that CSR is made up of three broad layers namely, one on top the other, thus CSR as traditional corporate philanthropy, CSR as branch of risk management, and CSR as an opportunity based enhancement of business value and competitive advantage (Franklin 2008).

Another definition forwarded by Professor Campbell in which he defines CSR as encompassing “those obligations (social or legal) which concern the major actual and possible social impact of the activities of the corporation in question, whether or not these activities are intended or do in fact promote profitability of the particular corporation thus differentiating corporate philanthropy (corporate humanitarianism that is not central to core business) of corporate business responsibility (towards shareholders and free market competition) and CSR (obligations arising from the consequences of business activity)”. According to Janet Albrechtsen:

CSR is a con job and largely all talk. Call yourself a stakeholder and corporate social responsibility says you get a foot in the boardroom door, to be treated no differently from a shareholder. While some activists push it for altruistic reasons, sincerely believing it is the role of business to engineer a better society. It is also a neat trick used by other NGOs as old fashioned blackmail, the idea being that if a corporation fails to embrace social responsibility by taking up their particular agenda, then by default that company must be a socially irresponsible corporate citizen. The fundamental flaw with corporate social responsibility, and why it is backward step, is the underlying premise that capitalism and companies have something to be embarrassed about, that they must justify their existence by going in search of

some higher moral purpose (Albrechtsen, 2006). The EU Commission is quite demanding in its definition of CSR. EU Commission defines CSR as social responsibility and voluntarily taking on commitments which go beyond common regulatory and conventional requirements, which they would have to respect in any case, companies endeavour to raise the standards of social development, environmental protection and respect of fundamental rights and embrace an open governance, reconciling interests of various stakeholders in an overall approach of quality and sustainability (Commission of The European Communities, 2011). However, it is vital to note that the task of providing a definition to CSR is made more difficult by mass confusion and disagreement worldwide namely, in areas of what counts as CSR? What responsibilities it embraces? What are the justifications of CSR? And whether the idea of corporations having any kind of societal responsibility at all even makes sense? (Horrigan, 2010). There is no consensus worldwide on the taxonomy for the concept of CSR let alone in its main forms and ends. Tom Donaldson argues that “in a globalised market economy, CSR is part of modern business.” (Donaldson, 2003). On the other hand, Daniel Franklin states “corporate social responsibility is rising sharply in global executives’ priorities. None of these means that CSR has suddenly become a great idea. But in practice only few big companies can now afford to ignore it” (Franklin, 2008) Corporate responsibility is an idea in which corporations take into consideration the interest of the society by pondering issues of economy, legal, ethical and also the impact of their activities to the community and environment. An establishment or corporation is expected to fulfil not only their economic responsibility but also are required to function within the walls of the framework of the laws and regulations as parts and parcels of their legal responsibility. Shells International reports define CSR as a shift from profits to the people, planet and profits or to profits and principles.

Although it is difficult to particularly point out what does CSR really mean, a general idea would be that corporations in their pursuit for profits should have the common decency to take into account their effects to the society at large thus in the food manufacturing it is crucial for food manufacturer to provide food that is not only healthy and safe for human consumptions but that of quality towards the community. Thus food manufacturers should adhere to the duties that are embodied in the Food Act 1983.

Their corporate social responsibility is served when they have the general desire to not only make profit but provide food for the community that enhances their health and not jeopardising it.

The law has given account to defining CSR in the sphere of private and public law. Carroll is of the opinion that legal responsibility is a partial fulfilment of social contract between business and society and corporations are expected to pursue their economic mission within the framework of the law. And this legal responsibility is also considered as a reflection of the codified ethics in the sense that they embody the notion of fair and just operations as established by the lawmakers (Carroll, 1991)

CSR is supported by public policy and has a strong link with the law. Public policy plays a principal role in law making. Thus, numerous legislations have been enacted in regards to food manufacturing, *inter alia*, the Food Act 1983. The establishment of various institutions mentioned above is to monitor the adherence to the legislation. Thus, Food and Safety Quality Division under the umbrella of the Ministry of Health plays a vital role in monitoring the production of safe and healthy food. FOSIM, a sophisticated web system helps enhancing the production of good food products in Malaysia by food manufacturers.

ENFORCING CSR THROUGH FOOD LEGISLATIONS: SELECTED PROVISIONS IN THE FOOD ACT 1985

The food legislations that govern the food industry is the Food Act 1983 and Food Regulations 1985 (This paper will focusing on the Food Act 1983). It is essential that the term “food” be defined before conducting an analysis of the role of institutional frameworks in Malaysia. According to section 2 of the Malaysian Food Act 1983, “food” is defined to include ‘every article manufactured, sold or represented for use as food or drink for human consumption or which enters into or is used in the composition, preparation, preservation, of any food or drink and includes confectionery, chewing substances and any ingredient of such food, drink, confectionery or chewing substances.’ From this definition, food includes anything manufactured, sold or presented for use as food or drink for human consumption and any ingredients used in any food or drink, including confectionery and chewing substances. However, it does not include live poultry;

see *MMP Saminathan & Ors v Reg* ([1958] 1 MLJ 166): “The term “food” in section 194(4)(a) of the Municipal Ordinance means any article used as food for human consumption. Meat and vegetables are food in that they are nutritive, therefore raw meat and raw vegetables are “food” within the meaning of that section, but not live poultry. Poultry becomes “food” when it has been killed [...] In my view the term “food” in section 194(4)(a) of the Municipal Ordinance means any article used as food for human consumption. I do not think it is disputed that meat and vegetables are food in that they are nutritive. It follows therefore that in my opinion raw meat and raw vegetables are “food” within the meaning of section 194(4)(a) of the Municipal Ordinance. In my opinion, however, live poultry is not “food” within the meaning of section 194(4)(a). Poultry becomes “food” when it has been killed and the sale is that of the flesh and not a live bird. Similarly, one cannot say that a cow is “food” within the meaning of section 194(4)(a) until it has been slaughtered.” Section 2 of the Food Act 1983 is in pari materia with section 19(4) of the Municipal Ordinance. The Municipal Ordinance has now been repealed. A similar decision was pronounced in the case of *Chuang Hock Meng @ Chung Hock Meng v Pegawai Kesihatan Daerah Hulu Langat Kajang, Selangor Darul Ehsan & Anor* [2002] 4 MLJ 27. In this case, the defendant seized live pigs from the plaintiff. The seizure was made on the believe that the defendant had contravened section 14 of the Food Act 1983 and regulation 40(5) of the Food Regulations 1985. The crucial issue in this case was whether live pigs were considered to be “food” under section 2 of the Food Act 1983. It was decided that live pigs could not be accepted as an article that could be used in the composition, preparation or preservation of any food as defined under section 2 of the Act. Furthermore, the Malaysian Parliament had included the definition of “animal” in section 2. The separate inclusion of the definition of ‘animal’ must mean that the animals, dead or alive, are distinct from to the ingredients mentioned under the definition of “food”. According to Blacks Law Online Dictionary, food is defined as: “a substance that is edible and has nutrition in it to sustain life and make energy. It helps maintain body functions and growth. It can be a fat, protein, mineral, or vitamin. It helps to promote health.” It is to be noted that in the English Food and Drugs Act 1983, the term “article” in relation to food “does not include a live animal or bird.” In the Food Act 1983, the CSR in relation to producing safe and

healthy food is manifested in various provisions of the Act, *inter alia*, sections 13, 13A, and 13B. By making an offence to those who manufacture food containing substances injurious to health, food unfit for human consumption and adulterated food, the Food Act 1983 indirectly has created duties on the food manufacturers to produce food which is safe and healthy for human consumption. The duties in the above sections are formulated in the form of a prohibition. These duties are followed by the penalty for not complying with the duty prescribed under the relevant provisions.

Section 13(1) of the Food Act 1983 stipulates that any person who prepares or sells any food that has in or upon it any substance which is poisonous, harmful or otherwise injurious to health commits an offence. This section indirectly stipulates that the food manufacturers have a duty to produce food which does not have any substances injurious to health. If there breach this duty, they will be penalised. The penalty imposed is a fine not exceeding one hundred thousand ringgit or imprisonment for a term not exceeding ten years or both. Since there is no Malaysian case on section 13(1), a case from United Kingdom will be referred in order to know how the court interprets the word ‘injurious to health’. In *Cullen v Mc Nair* (1908) 99 LT 358, the court decided that in order for the food to be ‘injurious to health’, the food does not necessarily to be injurious to everybody. It is enough if the food is injurious to certain group of people. In this case, the accused was charged with an offence selling food that contained boric acid, an offence under section 3 of the United Kingdom of Sale of Food and Drugs Act 1875. The food was found injurious to children and handicapped. The accused argued that the food is not injurious to health if taken by a normal adult person. The court disagreed with the accused and held that the food is ‘injurious to health’ although the food is injurious to certain group of people. The decision of this case shows that in enforcing CSR through the duty created under the Food Act 1983 particularly, section 13(1), the CSR is owed to every citizen in a country.

Section 13A of the Food Act 1983 makes it an offence to those who sell food unfit for human consumption. The penalty imposed is a fine not exceeding fifty thousand ringgit or imprisonment for a term not exceeding eight years or both. Therefore section 13A creates a duty on the food manufactures to sell food that is fit for human consumption. According to section 13A, food is unfit for human

consumption if it consists wholly or in part of:

1. any diseased, filthy, decomposed or putrid animal or vegetable substance;
2. any portion of an animal unfit for food; or
3. the product of an animal which has died otherwise than by slaughter or as a game.

The case of *J. Miller Limited v Battersea Borough Council* [1955] 3 All ER 279 held that the present of foreign matter *per se* does not make the food unfit for human consumption if the foreign matter can be extracted for the food without affecting the food general consumption. This can be seen clearly in the judgment of Lord Goddard where he said that:

“...how can one say that food becomes unsound, that is to say, rotten or putrid, merely because there is some piece of extraneous matter in the food which has no effect on the general consumption.”

In *J. Miller Limited v Battersea Borough Council* the foreign matter involved was a metal. This scenario is totally different if there is decomposed mouse in the food. In the case of *Barton v Unigate Dairies* [1987] Crim. LR 121, the court has distinguished this case from *J. Miller Limited v Battersea Borough Council*. In *Barton v Unigate Dairies*, the court held that the present of decomposed mouse in the milk has deteriorated the whole milk and thus, make it unfit for human consumption. From these two cases, it can be concluded that there is no duty on the food manufacturers to produce food which is totally free from any foreign matter. What is important to be considered is whether the food still fit for human consumption after the foreign matter has been extracted from the food? If the answer is YES, from the legal point of view the food is fit for human consumption.

In an article written by author (Rahmah Ismail, 2011) she cited the case in *National Food Ltd v Pars Ram Brothers (Pte Ltd)* (2007) a case decided in Singapore on the application of Section 13 of the Singapore Sale of Food Act, the respondents a Singaporean company, did not comply with the compositional standards prescribed under regulations 227 of the Food Regulations for ginger. Regulations 227 prescribes that ginger shall contain not more than 7 % of the total ash. In this case the ginger powder and ginger slices supplied by the respondents contained 14.34% and 19.02% ash respectively. *Pendakwa Raya v Fraser & Neave (M) SDN BHD*, The defendants relied on system. F & N bought new bottles from KL Glass Bhd. They also

used empties from the open market. These were first visually inspected for suitability. Then they were fed on slab conveyors into a mechanical washer which cleaned out the bottles in a nine stage operation. The bottles were pre-rinsed with water; pre heated, repeatedly soaked under high pressure with a hot caustic solution and then repeatedly rinsed out again under hot and cold water. Then the bottles were both visually and electronically inspected for damage before the contents were filled in and the bottles capped and stacked for delivery to the open market. The production manager of F & N gave evidence to this effect after the learned magistrate had visited the factory. The production manager said that the chipped bottle of the kind tendered in evidence would not have survived the kind of washing processes to which F & N subjected their bottles. The magistrate was satisfied that s 21 of the Ordinance applied, that all reasonable steps had been taken to prevent an offence.

Another duty imposed on the food manufacturer by the Food Act 1983 is a duty not to sell adulterated food. Historical record has shown that food adulteration has occurred before the century began in certain countries such as, United Kingdom, United States and India (Kumar, 1991). Food adulteration is committed by greedy and inhumane food manufacturers who want to become rich very quickly (Majnun Dar, 1999). According to Anderson:

Manufacturers, their ethical standards dulled by the impersonality of their functions, debased their goods in the struggle to survive. Some added chicory to coffee, mixed their matter with ground paper, or sold a mixture of glucose, flavouring and hayseed for raspberry jam. Other abuse stemmed less from the necessities of competition and moral insensitivity than from an economy which saw food produced far from the urban centres for which it was destined. Refrigeration, the ideal method of preserving food, was still in its infancy: manufacturers turned to chemical preservatives such as, borax, salicylic acid and formaldehyde (Anderson, 1964).

Therefore to monitor adulterated food, section 13B is inserted in the Food Act 1983 to regulate this matter. The penalty imposed is a fine not exceeding twenty thousand ringgit or imprisonment for a term not exceeding five years or both.

Section 272 of our Malaysian Penal Code goes on to state that whoever adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same

will be sold as food or drink, shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to two thousand ringgit or with both.

ENFORCING CORPORATE SOCIAL RESPONSIBILITY THROUGH INSTITUTIONAL FRAMEWORK

Apart from food legislations, there are numerous institutions in Malaysia which play important roles in ensuring the adherence of CSR amongst food manufacturers in Malaysia. Malaysia adopts an integrated approach involving various ministries, departments and agencies involved in the national food control system. Malaysia has also established the National Food Safety and Nutrition Council to act as advisory body to the government on food safety issues and policy. The Ministry of Health serves as the national Codex Contact Point and secretariat to the National Codex Committee. Consumers and the public are also actively involved in standard setting at the national level (Report Of The Fifteenth Session Of The FAO/WHO Coordinating Committee For Asia, 2006).

MINISTRY OF HEALTH MALAYSIA

The Ministry of Health plays a vital role in the overall technical supervision of food safety activities which includes the formulation of legislation, codes of practice, and guidelines and also by determining food safety policies and the adoption of food sampling and food premises inspection strategies. The Ministry of Health is also coordinating activities at the state and district levels.

FOOD AND SAFETY QUALITY DIVISION, MINISTRY OF HEALTH

The Food Safety and Quality Division (FSQD), Ministry of Health is responsible in protecting the public against health hazards and fraud in the preparation, sale and use of food and thus ensuring the role of corporate social responsibility amongst food manufacturers. The function of FSQD is also to ensure that food being sold is free from contamination and in compliance with the Food Act 1983 and Food Regulation 1985. Besides that it is to be noted that food processing is an important sector

within the healthcare industry. The FSQD, Ministry of Health was established to ensure that food processing activities are managed according to the required hygiene and safety standards. Food Safety and Quality Division is to ensure food security and improve the integrity of the nation in food quality and safety through responsibility and accountability with the tripartite management system based on effective towards Vision 2020.

FOSIM

Malaysia has also established Safety Food Information System of Malaysia (FOSIM), which is a web-based intelligent information system to strengthen food safety supervision management system to ensure that food sold in Malaysia is safe. It is pertinent to note that the system is interlayer-face with the Customs Information System (CIS), which allows importers, agents and officers manage the activities of the Ministry of Health through electronically import of foods and the risk-based approach (risk based approach) in determining the hazards in food imports. This system is beneficial to the country in terms of harmonization of food safety monitoring system at the entrance, to increase productivity, to reduce the phenomenon of “port hopping”. This system also helps Malaysia to be better prepared to deal with imported food crisis and thus finally enhancing the credibility and integrity of the country.

CONSUMER ASSOCIATION OF PENANG:

The objective of the Consumer Association in Penang (CAP) includes the education of consumers, balancing consumer needs and the degree of protection and to provide relevant consumer rights and entitlements, to ensure the price of goods remain fair and appropriate, to work with the existing laws in order to protect consumer’s interest and general health, to ensure the production of high quality products, to study fluctuations in the market with respect to the factors affecting it, to advice or make suggestions to the ministry and organizations involved in the business and commercial sectors, and others. The Vision of CAP is to give a voice to all consumers. CAP was established in 1970 and is denoted as a consumer organization with a difference. CAP’s main concern is ensuring the rights of every consumer are upheld through research, education. Their mission is to promote and strive for a more

ecologically sound and socially just society (<https://www.consumer.org.my/index.php/homepage/about-us/69-vision-a-mission>). The Consumer Association of Penang produces their own newspaper called the Utusan Konsumer in which they highlight food products that are unsafe for consumption. According to the UK Food Standards Agency report, which was illustrated in the Utusan Konsumer, it is estimated that 10% of food may be adulterated. According to CAP, the existence of laws does not guarantee that food will be of high quality and safe for human consumption and to ensure compliance with laws, strong enforcement mechanisms are required. CAP has been responsible for highlighting and reporting several food contamination issues, including those which have been highlighted in the previous sections of this paper.

NATIONAL CONSUMER COMPLAINTS CENTRE

The National Consumer Complaint Centre is a not-for-profit organization which was launched in July 2004, and is partially funded by the Ministry of Trade, Cooperatives and Consumerism in Malaysia. Its vision is to provide consumers with an alternative, fair, independent, and efficient complaints handling mechanism, while empowering them with the knowledge to protect themselves from errant traders. The mission of the NCCC is to create a household name for consumer dispute resolutions. Amongst the objectives of NCCC is to guide consumers in finding solutions to problems related to the purchase of goods and services, empowering consumers with information on consumer related matters, facilitating consumers in filing claims and complaints against errant goods and services providers and highlighting consumer concerns in the media. According to a report published in 2012 by the NCCC on Consumer Complaints Related to Food Products (NCCC Annual Report, 2012), the NCCC has received around 300 complaints relating to food products. Those complaints include reports of physical contamination (for example, a screw found in a cake, a string in a loaf of bread, glass shards in a pizza) and biological contamination (such as an insect found in infant milk powder and a maggot found in chocolate). In 2013, the NCCC recorded a total of 812 complaints of which 659 related to food products and services from packed or processed foods not related to restaurants. From their report, 41.7 % of complaints were lodged in relation to food safety such as the sale of expired

food, and foreign objects contained in food products (NCCC Annual Report, 2013). In 2014, the NCCC recorded a total of 1,230 complaints, with a potential loss of RM 84,720. More than 65.5% of complaints were in relation to food safety. Some complaints included the presence of wire, plastic, insects and maggots in food products. From this report, it is seen that the standard of food safety in Malaysia is still in need of constant monitoring and enforcement by government agencies through tougher penalties to deter prohibited behavior.

FOOD MANUFACTURING CONCERNS IN MALAYSIA

Unethical conduct of producing unsafe food stills continues until now. The Consumer Association of Penang has published a book entitled Dangerous Food - CAP Guideline Regarding Concealed Danger in Food which has highlighted dangers in food. In the year 2001, Malaysia has the highest rate of obesity in South East Asian countries and ranked sixth in the Asia Pacific region said Deputy Health Minister, Datuk Rosnah Abdul Rashin Shirlin. She said that 1266 food samples analysed in 2009, 92 samples or 7.3 percent were found to have too much sugar and last year 2004 samples were send for analysis and 108 or 5.4 per cent found to have excessive amount of sugar. She also released a statement that the Government has already acted by issuing reminders from time to time under the Food Regulations 1985 to ensure that food items are safe for consumption.

In another scenario, a research conducted by the Consumer Association of Penang showed that Malaysians are buying fruits that are containing toxic components such as calcium carbide that are hazardous to health, as this chemical speeds up the ripening of fruits. Calcium carbide contains properties that can lead to cancer and if consumed by expecting mothers can lead to deformity of the fetus (The Star, 2011). Another scenario is the usage of a substance known as Rhodamine B in the production of shrimp paste in Malaysia known as 'Belacan' and this substance has raised grave concern namely, due to the fact that the substance can lead to cancer. There are also cases in which the production of yellow noodles also known as 'mee kuning' and flat noodles known as 'kuey teow' contain boric acid that can lead to kidney failure.

All these scenarios indicate that the CSR among food manufacturers in Malaysia still low. This also shows that the level of adherence to the law and

the level of morality amongst food manufacturers in respecting the idea of CSR is not encouraging. Although Malaysia has laws and agencies, such as FOSIM and Food Safety and Quality Division to monitor food safety issues but why these scenarios still happen in this country? Is it due to the fact that our laws are not severe enough to frighten the food manufacturers? Or the enforcement of the laws by the Ministry of Health is weak? From the research that we have done, it can hardly be found cases brought to the court on food safety. The provision in the Food Act 1983 which allows the offences to be compounded may serve an answer for not bringing the case to the court.

One of the suggestions of the CAP is that enforcement agencies should classify boric acid as a poison, and should seek to prosecute and suspend food manufacturers that use this acid in their food products. Subsequent to this, it is suggested that enforcement agencies should conduct vigorous testing to ensure that food products are free from boric acid and other contaminants (Asid Borik Dalam Pelbagai Jenis Makanan 2002). Further, the NCCC have suggested that the enforcement units of the Ministry of Health and local councils should conduct regular and random checks of food manufacturing factories, to ensure safe and clean operations. It is hoped that those who fail to meet the minimum requirement are to be sanctioned accordingly. The NCCC also recommended that policy makers should establish a food safety incident information system and encourage the general public to report any kind of food safety incidents online (NCCC Annual Report, 2012). NCCC further recommends that the Food Safety and Quality Division should immediately impose stricter standards industry wide and that industries should adopt and follow the many guidelines which promote high standard of food safety in Malaysia (NCCC Annual Report, 2013). In addition, continuous education and campaigns aimed promoting food safety issues to consumers should be conducted. The Food Safety and Quality Division in Malaysia should be more transparent in their reporting of food safety cases, particularly on their website, and food manufacturers that are found to breach applicable food laws in Malaysia should be publicly listed. Further, government agencies should aim to encourage and facilitate the prosecution and reporting of such breaches.

CONCLUSION

Nonetheless, it is also important to note that the idea of CSR faces numerous limitations as the idea of CSR is predominantly affected by the way the law treats it and how other forms of regulation treat it. There are many arguments that whatever the moral responsibility (if there was to exist any) of business corporations towards the society at large, their primary legal responsibility is restricted to meeting the minimum requirement imposed on them by the law. The law also controls what business can and cannot do. In the food industry, the law also acts as mechanisms to incorporate CSR standards in the form of duties imposed on the food manufactures. As far as food manufacturers comply with the duties imposed by the law, it is safe to argue that the food manufacturers have adhered to CSR. The scenarios mentioned above show that there are still food manufacturers who fail to adhere to CSR. Therefore, it is suggested that food manufacturers must be brought to the courts if they contravene the provisions in the Food Act 1983 in relation to producing safe and healthy food. Stiffer penalties should be imposed on the food manufacturers if they are convicted.

The relevant authorities, namely, the Ministry of Health, Food and Safety Quality Division and FOSIM should educate the food manufacturers on the importance of producing safe and healthy food. Besides that these authorities must conduct regular supervision via random checking on the food in the market to ensure that food manufacturers comply with CSR. It is submitted that if these suggestions are implemented, the food industry in Malaysia will undergo a tremendous reformation.

Amongst the suggested strategies were namely to review and update legislation and strengthen infrastructure, enhance collaboration between government agencies, consumer bodies, academia, industry and international organizations, develop and train manpower resources, educate consumers to raise their awareness of food safety issues and enforcement involves inspection and sampling. A Core Prosecution Team ensures effective court action, while a Crisis Alert Team deals with acute situations. Premises handling, processing and serving food are inspected regularly and food samples are taken for microbiological, chemical and physical tests.

Laboratories for these tests have been established nationwide and are expected to conform to standards as outlined in ISO 17025. Consumer education should be recognized as being a cornerstone of food safety, because educated consumers function as food safety inspectors in their own right by using IT to educate consumers, but a cursory examination of the Food Safety Information of Malaysia website shows it to be dated, not user-friendly and not really an effective educational resource. (Ashok Philips 2015)

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Received: 4 Mei 2021
Accepted: 24 Mac 2022