

**LEGAL STATUS OF MALAYSIAN LOGO AND THE APPLICATION OF
MALAYSIAN LAWS TO THE MISUSE OF THE HALAL LOGO.**

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ABSTRACT

Halal food industry is a growing business and not being explored fully. The huge Muslim markets with estimated population around 1,599,500,000 in 2010 and expected to increase around 2,761,480,000 by 2050 (Base on the finding of Pew Research Centre, USA) and with the global market estimated to be USD 2.3 billion per annum show that the market of halal food is good and lucrative. Currently, Halal business is not solely confined to Muslim community and it gained much attention locally and globally especially concerning halal labelling and other abuse associated with it. In Malaysia, the question is whether there is an appropriate action taken by Malaysian authority on abuse of halal food labelling? This paper will analyse how various acts and regulations introduced by Malaysia apply to the abuse of the Halal logo. It will, for example, look at Consumer perception on the Halal logo; misuse of the Halal logo; and how the law deals with the misuse of the Halal logo. It will then go on to explore the misuse of the Halal logo in Malaysia by analysing the legal implication, and it will look at the question of foreign Halal logos and false labelling. In addition, there will be an exploration of the law concerning the Halal logo; i.e., The Food Acts 1983, The Consumer Protection Act 1999, The Trade Descriptions acts 2011, The Trade Description (Certification and Marking of Halal) Order 2011 and some of the case law arising therefrom.

Keywords: *Halal*, Administrative sanction, label. Halal certification, consumer protection, halal standard, halal manual.

(a) Introduction

In Malaysia, where Muslims make up of 60.4 percent of the population, there is a concern with the *Halalness* of food, because generally, the *Halal* logo increases public trust and confidence in brands and products¹. According to Ballin, accurate² labelling is important to inform consumer choice³. This is important because Muslim consumers had less time to check or obtain the necessary information on the products to satisfy their conscience when making a purchase; and this was particularly true the one thing consumers believed they could rely on was the determination of the *Halal* status of a product⁴.

Rezai, in his study found that, displaying JAKIM *Halal* logo on the food products is an important determinant for consumer's confidence, and the effect is positive⁵. This finding indicates an increasing likelihood to be confident with manufactured food products with JAKIM *Halal* logo rather than others. According to the results, the level of confidence on JAKIM *Halal* logo is 3.321 times higher than other *Halal* logos in Malaysian food markets⁶. Meanwhile reading or looking at the list of ingredients would be less likely to be trusted by consumers⁷. It can be concluded that consumer rely on JAKIM *Halal* label more than the list of ingredients. However, the Halal logo and the accurate labelling are both important and needed to ensure that the consumers get what they really want. Currently, other than Malaysia

¹ Golnaz Rezai, 'Consumers' Confidence in Halal Labeled Manufactured Food in Malaysia' (thesis, Universiti Putra Malaysia 2008) 1.33.

² Authenticity problem may occur in terms of origin, substitution, processing treatment and addition ingredients.

³ NZ Ballin, 'Authentication of Meat and Meat Products' (2010) 86 Meat Science 577, 578.

⁴ Zalina Zakaria, 'Tapping into the World Halal Market: Some Discussions on Malaysian Laws and Standards' (2008) 16 Shariah Journal 603, 610.

⁵ Rezai (n 1) 4.49.

⁶ Rezai (n 1).

⁷ *ibid.*

Halal logo, there are 73 foreign logos which are recognised in Malaysia by JAKIM/JAIN and MAIN⁸.

Despite a higher level of confidence towards the Malaysian *Halal* logo, there are a lot of incidents reported by the press involving the misuse of the *Halal* logo. In addition to that, there are also cases reported by consumer association group such as Consumer Association of Pulau Pinang (CAP) concerning misuse of the *Halal* logo. Up to December 2012, JAKIM carried out 740 inspections over Malaysia *Halal* logo on Restaurant premises. Only 308 of the premises comply with the usage of the *Halal* logo while the remaining of 432 premises were given a warning for the offence of not complying with the conditions of the *Halal* logo and only eight cases were investigated under the Trade descriptions Act 2011⁹. The company inspected because they carry the Malaysian *Halal* logo and it shows that 58.37 % fail to comply with the criteria set by JAKIM. In addition to this, there are also cases of misuse of the *Halal* logo where the company never apply to use the *Halal* logo. They are using fake *Halal* logos or other company *Halal* certification¹⁰. The greatest danger faced by consumers looking for *Halal* food, lies in the consumption of fake *Halal* food. It is important for the consumer to identify the genuine *Halal* logo which is attached to the food or good.

(b) Misuse of the *Halal* logo and the law

The *Halal* logo can increase the demand for the product, thus, some of traders take advantage of this situation by abusing, exploiting or misusing the *Halal* logo. This is one of the problems faced by consumers, i.e., identifying the genuine *Halal* food products in the market.

However, there are laws governing the marking of the *Halal* logo in Malaysia. The Government has passed numerous laws directly or indirectly related to the protection of *Halal* food. There are requirements that need to be fulfilled before the *Halal* logo can be attached to the foods and

⁸ As at 24 February 2019.

⁹Parliament Malaysia, 'Hansard Parliament 18 December 2012 (Penyata Rasmi Parlimen Dewan Negara)' (Parliament Malaysia 2012) 24 <<http://www.parlimen.gov.my/hansard-dewan-rakyat.html?uweb=dr&>> accessed 16 December 2014.

¹⁰ See Section 4.2.1.1

goods. It is important to be aware of the extent to which these rules seek to address the problems associated with misuse of the *Halal* logo. It will be seen that the statutory rights and regulation offer protection to consumer against misuse of the *Halal* logo. However, there are differences in the scope of protection, definition of *Halal* which need further interpretation.

(c) Legal position of *Halal* logo in Malaysia

Section 2 of the Food Act 1983 defines label as “including any tag, brand, mark, pictorial or other descriptive matter, written, printed, stencilled, marked, painted, embossed or impressed on, or attached to or included in, belonging to, or accompanying any food”¹¹. The *Halal* logo is a mark accompanying food. Any *Halal* logo attached to food either from JAKIM or other certifiers is considered as label under Section 2 of the Food Act 1983. This is a general provision on food labelling but is also applicable to *Halal* logo.

Order 4 (1) of the Trade Description (Certification and Marking of Halal) Order 2011 provide 2 requirements that need to be fulfilled before the foods and goods can be described as *Halal*. Firstly, it must be certified by the competent authority¹² and then marked with the logo¹³ as stated in first schedule of the Order. The word ‘and’ in the Order shows that it must be read conjunctively; certified and then marked with *Halal*. Food producer need to be certified before they entitled to use the *Halal* logo in their product. If food producer’s use the legitimate *Halal* logo, there are no legal problem to resolve. However, if they are using it falsely, government can prosecute them for falsely using a *Halal* logo under the law which is currently in force.

In addition to the above, the Food Act 1983 provides general definition on labelling which can also apply to the *Halal* logo, while the Trade Description (Certification and Marking of Halal) Order 2011 gives more specific features of the *Halal* logo that need to be followed by the food industry for *Halal* marking.

¹¹ Food Act 1983 s 2.

¹² Trade Description (Certification and Marking of *Halal*) Order 2011, Order 4(1)(a).

¹³ Ibid, Order 4(1)(b).

The First Schedule of the Trade Description (Certification and Marking of *Halal*) Order 2011 illustrated Malaysia *Halal* logos reads as follows¹⁴:

- (a) Star with eight edges in the middle of the circle.
- (b) Arabic word –*Halal* in the middle of the star;
- (c) Followed by the word *Halal* in alphabet;
- (d) Circle with the word ‘Malaysia’ in Arabic and alphabet.
- (e) Small star to distinguish between Arabic and alphabet.

The *Halal* Malaysia logo has been used since November 2003 for the purpose of coordination among the 14 states in Malaysia. Any foods and goods which obtain *Halal* certification from JAKIM/JAIN/MAIN shall use the Malaysian *Halal* logo. It should be printed clearly on all manufactured products and labelled on each packaging. As in the case of food premises, the *halal* logo should be displayed at the said premises. The *Halal* logo should be exhibited at the *Halal* kitchen or at the particular *Halal* section of the restaurant.

Among the problems concerning *Halal* in Malaysia before the amendment of the Trade Description Act 2011, was the self-declaration of *Halal* where the producers can declare their product as *Halal*, and, if there is any dispute, the *onus* is on the prosecution to prove that the product is non-*Halal*. Consequently, some producers take an advantage of the situation where they produce a product with a fake *Halal* logo. It was difficult for the consumer to identify whether the food is genuine *Halal* or not, since there are a lot of *Halal* abuse cases during that time.

Due to this, the Trade Description Act 2011 and the Trade Description (Definition of *Halal*) Order 2011 was amended. In addition to that, Trade Description (Certification and Marking of *Halal*) Order 2011 was passed with aimed to protect *Halal* consumer from fraudulent *Halal* food.

¹⁴ JAKIM, ‘Circular Halal Malaysia Certification No 1/2011’ 8.

To tackle this issue, the government, through Order 4 of the Trade Description (Certification and Marking of *Halal*) Order 2011 control *Halal* logo by only recognize one *Halal* logo as mentioned earlier, and it makes it easier for the consumers to verify the label with the JAKIM if there is any ambiguity concerning food products. This is good for the consumer and avoids confusion since there will be one recognised *Halal* Malaysian logo. There are few occasions where the business owner use the fake *Halal* logo in their premise or use the expired *Halal* logo. Take an example of the case reported by press in Negeri Sembilan, Malaysia. In this case, one restaurant misused the Malaysian *Halal* logo by displaying it in the entrance of their premise. They displayed the *Halal* logo even though the certification had expired and the renewal was rejected due to the failure of the company to comply with the *Halal* standard¹⁵. In other reported incidents, one factory abused the *Halal* logo by using another company's *Halal* certification¹⁶. In both examples above, the intention to misuse the *Halal* logo is there.

There is no way for the consumer to identify the validity of the *Halal* logo used by the restaurants unless to verify it with the authority if there is ambiguity about the logo.

Due to the amendment of the TDA in 2011, there is some modification in the landscape of *Halal* law in Malaysia. Based on the Order 4(1)(b), Order 5(2) and Order 6 of the Trade Description (Certification and Marking of *Halal*) Order 2011, it should be noted that it is not an obligation for the food producer to mark their food as *halal*¹⁷. It only specifies that once the food is marked as *halal* then the trader or the manufacturer/producer of the food is responsible to ensure that the food is genuinely *Halal*.

All food specified in the Schedule hereto which is *halal* according to the Trade Description (Certification and marking of *Halal*) Order 2011 shall not be supplied unless it is marked by a *Halal* logo indicating that such food is *Halal*. The *Halal* logo can only be marked on each product upon approval of the competent authority in Malaysia¹⁸.

¹⁵ Nur Sharieza Ismail, 'Papar Logo Halal Palsu' <<http://www.sinarharian.com.my/edisi/melaka-ns/papar-logo-halal-palsu-1.119950>> accessed 12 February 2015.

¹⁶ *ibid*.

¹⁷ Trade Description (Certification and Marking of *Halal*) Order 2011, Order 4.

¹⁸ Paragraph 6 of the MS1500:2009.

It is to be noted that both the Trade Description (Certification and Marking of Halal) Order 2011 and Malaysian *Halal* standard MS1500:2009 are in line with the International guideline for *Halal* provided by Codex Alimentarius Commission¹⁹, known as Codex General Guidelines for Use of the Term “*Halal*” which is a supplement to the Codex General Guidelines on Claims. This guideline provide basic and general information on how food could be produced and claimed as *Halal* which stated as follow:

“When a claim is made that a food is *halal*, the word *halal* or equivalent terms should appear on the label²⁰. In accordance with “Codex General Guidelines on Claims”, claims on *halal* should not be used in ways which could give rise to doubt about the safety of similar food or claims that *halal* foods are nutritionally superior to, or healthier than, other foods”²¹.

To summarise, Malaysia provided a clear provision on the marking of the *Halal* logo where the food is claim as *Halal*, thus, the *Halal* label should accompany the food.

By contrasts, if the food producers or manufacturers do not use the *Halal* label on their products, it is not considered a violation of these laws, since application for the *Halal* label is voluntary in Malaysia. Due to the current regulation, some Muslim consumers prefer to purchase the food from the Muslims seller with the hope that the food is *Halal* even though the *Halal* logo is not displayed²².

Apart from the Malaysian Halal logo, there are also problems concerning foreign *Halal* logos which will be discussed below.

¹⁹ The Codex Alimentarius Commission is an international standard setting body for food safety jointly administered by two United Nations agencies which are The Food Agriculture Organisation (FAO) And the World Health Organisation (WHO) in 1963. Their role is to develop and harmonised international food standards, guidelines and codes of practice to protect the health of the consumers and ensure fair practices in the food trade. The application of Codex standards is voluntary to its member but in many cases, it serves as a basis for national legislation.

²⁰ General Guidelines for Use of the Term ‘Halal’ 1997 para 4.1.

²¹ *ibid* 4.2.

²² Zakaria (n 4) 611.

(d) Foreign Halal logos

Besides the Malaysian *Halal* logo, there are also foreign *Halal* logos recognised by JAKIM/JAIN/JAIM in Malaysia²³. Order 5(1)(2) of the Trade Description (Certification and Marking of Halal) Order 2011 stated that food and goods shall be marked with the name of the certification body. It is not necessary to mark it with the logo since some of the foreign *Halal* certifier does not have a *Halal* logo. This can be seen in the list of foreign *Halal* certification body recognized by JAKIM as specified in the Schedule 2 of the Order. Based on this Schedule, there are 53 foreign *Halal* certification recognized by JAKIM and they carry different *Halal* logo. This number will increase from time to time. As of February 2019, the number of foreign *Halal* certification body is 78²⁴. A company will be delisted if the requirement²⁵ set by JAKIM is not fulfil²⁶. There is an example of delisting of Australian and New Zealand Halal meat producers by JAKIM²⁷. This shows that the list is not static. It will increase or decrease. However, for the last 2 years, it shows that the list keeps increasing and there is no tendency that it will be reduced.

²³ Trade Descriptions (Certification and Marking of Halal) Order 2011, Order 5.

²⁴ JAKIM, 'The Recognised Foreign *Halal* Certification Bodies & Authorities' <<http://www.halal.gov.my/v3/index.php/ms/senarai-badan-islam-yang-diiktiraf>> accessed 30 May 2019.

²⁵ Among the requirement sets are the company loses its legal status by law; failure in monitoring the halal status of the abattoirs and processing plants; and failure to fulfil Malaysia's requirement on halal certification including failure to submit the six-month report of monitoring and audit activities of the plant in every six months

²⁶ JAKIM, 'International Islamic Bodies' (*Halal Malaysia*, 11 February 2015) <<http://www.halal.gov.my/v3/index.php/en/guidelines/international-islamic-bodies>> accessed 11 February 2015.

²⁷ They are delisted because applying 'thoracic sticking'. Thoracic sticking is severing major blood vessels emerging from the heart by inserting a knife in front of the brisket or sternum. Double cut: first the skin, then, the vessels.

Out of 78 foreign *Halal* certifiers, only 60 have their own *Halal* logo while the remaining do not have any logo²⁸. The way of marking is different from the Malaysia *Halal* logo where the marking of *Halal* is using the name of the certifier as stated in Order 5(2) of the Trade Description (Certification and Marking of *Halal*) Order 2011. With the numbers of different *Halal* logo in the market, again, it is difficult for the consumer to identify the originality of the logo or the name of the certifier, and the problem may occur as what was happened to Malaysia *Halal* logo before the amendment of the Trade Description Act 2011²⁹. Some of the difference before the amendment of TDA 2011 - there are many logos and some are not certified by the authority, but nowadays, it require a certification from the authority but the number of logo is still huge. The consumer will be confused. The various types of Foreign *Halal* logos may be open to abuse. In Malaysia, Muslims consume the foods, drinks and manufactured products by looking at *Halal* logo that authorized by the government agency. Therefore, the *Halal* logo by which Muslims purchased their daily food and they trust the logo very well.

To overcome this issue, it is suggested that the Malaysian *Halal* logo is attached together with the Foreign *Halal* logo or foreign *Halal* certification name, on the food or goods to help the consumer recognise the right *Halal* logo. The benefit of this idea is to make it convenient for the consumer, and make it easy to choose *Halal* product by looking at the Malaysia *Halal* logo on the food packaging. However, there are two disadvantages. First, it may incur costs of production on packaging. Second, if the *Halal* foreign certifier is delisted from the list, there will be a problem³⁰ with the existing production since Malaysia *Halal* logo is attached to the food and good and the certifier is prohibited to use that logo.

(e) False labelling

²⁸ See appendix for the list of the recognised foreign *Halal* certification bodies & authorities as at February 24th , 2019

²⁹ Some irresponsible producers or manufacturer may take advantage of the different foreign *Halal* logo in the market because it is quite difficult for the consumer to identify whether the label is genuine or not.

³⁰ The problem here is they cannot use the Malaysia *Halal* logo and it will incur more cost for repackaging. If they keep using the logo after delisted, they will subject to the misuse of *Halal* logo.

Next, moving to the false labelling. There are cases where food producers use fake *Halal* logos, *Halal* logos with expired certificate or mix non-*Halal* elements into food which is certified *Halal* by the authority³¹. These are all examples of false labelling. Malaysia has several provisions concerning false labelling. Section 8 of Consumer Protection Act 1999 (CPA 1999) defines false as misleading or deceptive, and includes conduct, representation or practice which is capable of leading a consumer into error. If the manufacturer, falsely using the *Halal* logo in their product which is not certified by the authority, they are trying to mislead the consumer to believe that the product is *Halal*. Section 9(a) of CPA 1999 further specifies that any act that is capable of leading the consumers into error, such as using false, misleading or deceptive information in relation to a product, presentation or practice be prohibited. Section 10 of the Act provide that a false statement inducing the consumer into believing that the goods are of a particular kind, standard, quality, grade, quantity, style or model or that the goods are under any sponsorship, endorsement approval, performance, characteristics, accessories user or benefit is prohibited. For example, if producers fail JAKIM/JAIN/MAIN certification standard, or never apply for it, but use *Halal* logo in their product, they can be prosecuted for fraud. MDTCC have stated that a total of 29 cases of *Halal* abuse was reported in 2012 and only 1 case was settled with a compound of Ringgit Malaysia 3 thousand (USD 650), while the rest was seized, and their goods confiscated which values about fifteen thousand Ringgit Malaysia³².

Provision in Section 10 of the CPA 1999 is similar to the false labelling provision provided in the Section 7(4) of the TDA 2011, Section 15 and 16 of the Food Act 1983. Section 7(4) of the TDA 2011 provides that, there are three indications of false labelling which are false indication that the good comply with a standard specified, or recognized by any person, or implied by the approval of any person. Section 15 of the Food Act provides that it is an offence for a person who prepares, packages, labels, or advertises food with a specific standard but does not comply with that standard.

³¹ Director of JAKIM *Halal* Hub mentioned to Utusan Malaysia on 2 February 2011 that not all *Halal* logo in the market are genuine. For fake *Halal* logo, the jurisdiction is under the MDTCC and not JAKIM.

³² Mustafa Afifi Ab Halim and Azlin Alisa Ahmad, 'Enforcement of Consumer Protection Laws on Halal Products: Malaysian Experience' (2014) 10 Asian Social Science 9, 10.

Here, the Acts do not specifically mention any abuse or illegal use of the *Halal* logo. It can be noted that the law provides a general principle that can be applied to the *Halal* logo. Thus, this law can also be applied to misleading or deceptive acts in which a product is marked as '*Halal*' when it is not. Interestingly, until today, no *Halal* violation has been upheld under this Act.

Next, Section 16 of the Food Act 1983 further stipulates that it is an offence for any person to prepare, pack, label or sell any food in any false, misleading or deceptive manner regarding its character, nature, value, substance, quality, composition, merit or safety strength, purity, weight, age, origin, and proportion.

To obtain a *Halal* logo, it is necessary for the applicant to fulfil the requirement of the *Halal* standard³³. Misuse of labelling often associated with the failure of the company to comply with the *Halal* standard. If the trader's use the *Halal* logo in their product but it does not fulfil the requirement as prescribed in the standard, it is an abuse of the *Halal* logo. Since this section will only concentrate on misuse of the *Halal* logo, this problem will be discussed later in the section concerning issues in *Halal* standards and certification.

Even though this is a general provision on false labelling, it is a clear provision which can also be applied to the abuse of *Halal* logo where the trader misuse it. There is also an overlap between these provisions, but the scope of these Statutes is different. The scope of the Trade Description Act 2011 is to promote good trade practices by prohibiting false trade descriptions and false or misleading statements, conduct and practices in relation to the supply of goods and services. While the Consumer Protection Act 1999 is to provide for the protection of consumers, and the Food Act 1983 is to protect the public against health hazards and fraud in the preparation, sale and use of food. When it comes to the misuse of the *Halal* logo, all these

³³ There are various standards or guidelines set by organisations around the world pertaining *Halal* food standards. For example, *Halal* food standard ICRIC-MHS-0110 is applicable to 57 of Islamic countries In Organisation of Islamic Cooperation (OIC), *Halal* food Standard THS24000:2552 is applicable in Thailand, Guidelines of *Halal* Assurance System is practice in Indonesia, *Halal* standards ONR14200:2009 in Austria and European Countries is preparing *Halal* food guideline known as Guidelines on *Halal* Definition

provisions can be applied to this problem. This is, indirectly, safeguarding the *Halal* logo from misuse.

(f) How the law deal with the misuse of the *Halal* logo

Order 5³⁴ of the Trade Description (Definition of *Halal*) Order 2011 and Order 8³⁵ of the Trade Descriptions (Certification and Marking of *Halal*) provide a fine and punitive action towards corporation or individual who commit any offence under this Order. The penalty under this provision is severe compared to the previous Trade Descriptions Act 1972 for false trade description to any goods³⁶. However, both provisions offer a fine, or imprisonment, or both, if

³⁴ Order 5 of the Trade Description (Definition of *Halal*) Order 2011:

'Penalty

Any person who is guilty of an offence under this Order shall, on conviction, be

liable— (a)

if such person is a body corporate, to a fine not exceeding five million ringgit, and for a second or subsequent offence, to a fine not exceeding ten million ringgit; or

(b)

if such person is not a body corporate, to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding three years or to both, and for a second or subsequent offence, to a fine not exceeding five million ringgit or to imprisonment for a term not exceeding five years or both.'

³⁵ Order 8 of the Trade Descriptions (Certification and Marking of *Halal*) Order 2011:

'Offence

Any person who— (a) certifies that any food, goods or services in relation to the food or goods is *halal*; or (b) supplies or offers to supply any food, goods or services in relation to the food or goods, in contravention of this Order, commits an offence and shall, on conviction, be liable—

(A) if such person is a body corporate, to a fine not exceeding two hundred thousand ringgit, and for a second or subsequent offence, to a fine not exceeding five hundred thousand ringgit; or (B) if such person is not a body corporate, to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both, and for a second or subsequent offence, to a fine not exceeding two hundred and fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both.'

³⁶ Section 18 of the Trade Descriptions Act 1972 provides that a person who is guilty of such offence is liable to a fine not exceeding RM100,000 or to imprisonment for a term not exceeding 3 years or to both, and for subsequent offences to a fine not exceeding RM200,000 or to imprisonment for a term not

convicted for the offences. Up to date, there are no reported court cases concerning *Halal* abuse except one case in 1986. In the case of Public Prosecutor v Wee Mee Industries Co Sdn Bhd³⁷, the respondent faced two charges. The first charge was for false trade description and the use of word *Halal* on packets of instant noodles - when they were not; and the second charge related to a false trade description by applying 'edible vegetable oil' on packets of instant noodles, which, in fact, contained animal fat³⁸. In this case, the respondent was acquitted on the first charge due to a technicality because the prosecutor failed to prove that by the use of the word *Halal* as defined in the Trade Description (Use of Expression "Halal") Order 1975, the accused had applied a false trade description³⁹. However, the trader was convicted on the second charge. Tan Chiaw Thong J held that the prosecution had not adduced evidence that the expression of *Hukum Syarak* as express in the Trade Description (Use of Expression "Halal") Order is applied to the State of Sarawak⁴⁰. The court also found that the witness called was not an expert witness and his evidence did not disclose that *Hukum Syarak* as defined applied to the state of Sarawak⁴¹. It is to be noted that *Halal* is a state matter as provided by list II of the Federal constitution of Malaysia. Jurisdiction of *Halal* will be discussed in other section since it impacts on the implementation of *Halal* law in Malaysia.

Before the amendment of the Trade Description Act 2011, food producers can make a self-declaration of *Halal*. With the amendment of this Act, only Malaysia *Halal* logo and foreign *Halal* certification bodies recognised by JAKIM are accepted. The definition of *Halal* is expanded, and it try to accommodate the representation of *Halal* which will be discussed later.

Other than the above, the abuse of *Halal* sign can also be prosecuted in the Shariah court. It is an offence for any person to display or label any food or drink which is not *Halal*, any sign which indicates that such food or drink is *Halal*. The offence is punishable with a fine not

exceeding 6 years or to both. Further, a body corporate which is guilty of such offence is liable to a fine not exceeding RM250,000 and for subsequent offences to a fine not exceeding RM500,000.

³⁷ [1986] 1 MLJ 505.

³⁸ *Ibid.*

³⁹ *Ibid.*

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

exceeding RM5, 000 or imprisonment for a term not exceeding 3 years or both⁴². Interestingly, this provision is only applicable to the Muslim⁴³. If the misuse of the *Halal* logo is committed by non-Muslim or company, they cannot be held liable under this provision.

Section 15 of the Food Act 1983 further provides an offence for any person who label food which is not according to the standard. If convicted, they will be liable for imprisonment not exceeding three years or to fine or to both. Those who apply the *Halal* logo without fulfil Malaysia *Halal* standard MS1500:2009 and *Halal* Certification Manual can be held liable under this provision.

Even though the penalty for those who abusing *Halal* is severe, but many companies fail to comply with the *Halal* requirements. The provisions set by the law makers are to the advantage of *Halal* labelling and the penalty provided by Order 5 of the Trade Description (Definition of *Halal*) Order 2011 and Order 8 of the Trade Description (Certification and Marking of *Halal*) Order 2011 is severe. The Authorities should fully utilize the law and penalized the food producers who abuse the *Halal* food labeling rather than give a warning or fine. This might help to reduce the abuse of the *Halal* logo cases in the future.

(g) Concluding Observations

This paper provides a useful analysis of how the law deals with the misuse of *Halal* logo. In general, the provisions relating to *Halal* logo demonstrate that the provisions and guidelines are sufficient even though there are few issues that might affect the effectiveness of the *Halal* labelling and open to the *Halal* abuse. It can be seen that multiple agencies have a power to deal with the abuse of *Halal* logo. Take the example of false labelling, the MDTCC can take action under TDA 2011⁴⁴, JAKIM can take action under the Syariah Criminal Offences (Federal Territories) Act 1997⁴⁵ and MOH can take action under the Food Act 1983⁴⁶. This is

⁴² Syariah Criminal Offences (Federal Territories) Act 1997 s 42.

⁴³ *ibid* 1(2)(b).

⁴⁴ See Section 28 and 29 of the Trade Description Act 2011.

⁴⁵ See Section 42 of the Syariah Criminal Offences (Federal Territories) Act 1997.

⁴⁶ See Section 16 of the Food Act 1983.

an advantage towards *Halal* development itself since it involves interest of many government agencies.

However, the *Halal* logo does not have any security features. It is timely to consider whether the *Halal* industry need a *Halal* logo with security features. However the costs involved and its effectiveness need to be taken into consideration. In addition, this might not resolve issues of contaminated products with non-*Halal* elements after obtaining a *Halal* certificate. Other option should be explored.

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