

MANIPULATION OF HALAL LOGO: A LEGAL STUDY ON KNOWN UNREPORTED CASES IN MALAYSIA

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***Abstract:** Halal is a key consumer issue. Thus, materials or ingredients in the product that contain non-halal will prompt a controversial issue. There were a few circumstances in which involved a famous company where most Muslims as consumer consumed the food products such as Cadbury, Starbuck, and Auntie Anne. These cases known as unreported cases as the media had highlighted the cases, released it to the attention of the public and becomes a sensitive issue as it outburst manipulation of halal. However, these cases were not brought before the court. Thus, this article attempts to discuss the manipulation of the halal logo that early granted to the manufacturers but in such cases where they had misled and manipulated the halal permission. To answer the objective, this article applied a descriptive analysis based on the unreported cases. Based on the analysis, the manufacturers claimed to be innocent as they already followed all the rules of regulation by JAKIM and successfully settled out of court.*

Keywords: Halal, Logo, Legal and Manipulation

Introduction

Halal certification is a reassurance of the Muslim's consumer to purchase and consume the food products (Syarifah Zanierah Syed Marzuki, et al, 2011). It also acts as an evidence to convince consumers. In the case of manipulation of halal, the irresponsible manufacturers intentionally manipulated the certification by using the approval of halal granted to them earlier. The manufacture was permitted to produce the halal food products under the approval of Department of Islamic Development Malaysia (JAKIM), unfortunately they misused the grant of halal logo by misrepresenting the use of ingredients or defrauding the halal logo itself. To note, it is not mandatory for the manufacturers to apply for a halal certificate as without the JAKIM's halal certificate, the food products is neither Halal nor Haram to be

consumed. However, once the halal certificated is granted, it is compulsory for the manufacturer to comply to all rules and regulation for the standard of Halal food products without any compromise. In fact, the JAKIM certified halal logo itself is a proof and indication of halalness of such food products. The halal logo is placed on packaging will explicitly give information on halal of the product.

Manipulation of Halal Products by Manufacturers

A reliance on the halal logo that granted by JAKIM assures that the food is certainly halal to be consumed without any doubt. The logo acts as a key reliance among the Muslims to buy and consume the products produced by such manufacturers without any hesitation. The halal logo is deemed to be the best pulling factor in the consumer's purchasing power. This is because, it relates to the issue of reliability. However, the illegality and uncertainty of Halal logo granted by JAKIM may lead to undetermined decision making among Muslims businesses (Nor Anita, et al (2017). For instance, in case where the halal logo was imitated to deceive the Muslim consumers. Thus, consumers will unintentionally consume the non halal products due to the manipulation by some of the irresponsible manufacturers. According to Nuradli Ridzwan, et al (2007) , an irresponsible manufacturer was found to produce products from non-Halal ingredients, yet applied and used the JAKIM's Halal logo certified.

The issue of manipulation affects the reliability of the halal logo itself as the determination of Muslim's perception relies on the halal products. In comparison, people may have not the same perspective and motivation in making a purchase decision. In fact, the quality of the product become the most known justification in making a purchasing decision especially of food product. The taste of such foods reflect the best of quality to influence the consumer to purchase. For example, the features, price, branding of the products, the origin of the products and packaging also influence consumers apart from the quality aspect. According to Maison, D, *et al* (2018), Halal label or logo effects the Muslim's as consumer to purchase the food products. Therefore, it is an obligation for manufacturer who holds the Halal logo to comply with the standard requirement of the Halal certificate as granted by JAKIM. Thus, in such a case where JAKIM had authorized the manufacturer with certified Halal logo and if it is manipulated, it gives a major impact to Muslim's purchasing decision. It is an obligation mandated for the manufacturer to produce the Halal food products in compliances with the standard service in its operation. The manipulation will lead to loss of confidence towards the Halal certified logo itself. Any existence of reports or issues of manipulation and fraud concerning the issue of Halal certification and manipulation by manufacturers show that there are some weaknesses in conducting and implementing the procedures to determine the food products as certified Halal.

Known Unreported Cases on the Manipulation of Halal Products

In Malaysia, there are a few halal issues on food products. It happened due to the factors in which public had boycotted the food products by certain manufacturers who manipulated the Halal certified logo by JAKIM that has been identified to produce the non-halal food products. The public made the issue of halal viral and made people aware on the issue as it affect the Muslim's integrity of consuming only the Halal food products. As mentioned earlier, the compliances of Halal procedures must be strictly adhered by the manufacturers in food businesses. Failure to comply with such rules and regulation resulted to the loss of Muslim's belief and confidence in consuming such food as Halal is a key consumer factor in purchasing decision. Thus, when any issue of Halal outburst, the halal of such food products is strictly questionable. In cases where it was viral, however, due to certain reasons, the

settlement was made out of court without been heard and decided as court case. In this situation, the unreported case can be understood as cases in which the decision was decided without being heard before court and the decision can be acknowledged as it was made by the recognized body such as JAKIM. Normally, the decision is accepted as reliable and convincing the public to continuingly consume the food products as usual without doubts.

In Malaysia, a few cases of irresponsible manufacturers were found to produce food products from non-Halal ingredients, yet still applying the Halal (Nuradli Rizwan, 2007). Amongst halal manipulation unreported cases in Malaysia such as Cadbury, Starbucks and Auntie Anne. The cases were never brought to the court yet it was settled out court and the public acknowledges it and seems to accept the fact it is considered halal.

Cadbury's Case

In between end of May 2014 to early June 2014, the Cadbury controversy occurred when government officer leaked information regarding DNA porcine (pig) contamination in two locally made Cadbury products; Cadbury Dairy Milk Hazelnut and Dairy Milk Roasted Almond. The Health Ministry has confirmed that two samples tested which involved dairy Mil Hazelnut and Dairy Milk Roasted Almond were positive for porcine DNA in the following day and were barred from the market shelves (Yasmin Hafiz, 2014). The rumours about 'Cadbury chocolate may not be halal' began to spread when a copy of the report posted on social media sites, particularly Facebook. Cadbury Confectionery Malaysia Sdn Bhd, which have been operated in Malaysia for over 40 years, was aware of the rumour then promptly stated on its Facebook page that all locally made products are halal and certified by JAKIM. The company asserts "Care is taken with all the ingredients and production process," the company wrote. "We follow rigorous processes in making our chocolate to maintain our certification."

Consequently, the Cadbury's halal certification for the two products were suspended by JAKIM. Cadbury was seriously affected by the claim, thus Cadbury had made an announcement on their Facebook page that they have identified the batches that had been recalled and stressed that other products were not affected. Unfortunately, the leaking of the result report was known to the public via social media before an official announcement was made to confirm on it. This was one of the reason why the Cadbury Company blamed the release of the viral report known to the public through social media before it was formally released after validation took place by JAKIM as the recognized institution in halal matters. Nevertheless, Cadbury received great criticism from the Muslim community in particular. Cadbury had been accused by attempting to weaken Muslim in Malaysia. Muslim's expression on the issue was remarkable. NGOs expressed their anger and demand for the Cadbury factory in Malaysia to be shut down. To make matter worst, some even suggested for the factory should be burned down (Tony Jacques, 2015). Cadbury issue on Halal had made Muslims losing the Muslim's confidence as Cadbury had betrayed the belief given.

The Cadbury issue has gained international attention and spread the tension pertaining to Cadbury in other countries namely Indonesia, Singapore, and Saudi Arabia. The countries announced to conduct a test in on the content of Cadbury products in their respective countries. This is to ensure that the ingredients used in the manufacturing of the products are truly as declared under the statement of ingredients and free from pork-related ingredients. In that case, Cadbury Malaysia's Head of Corporate Affairs at that time, Raja Zalina Raja Safran, released a certified statement emphasizing that Cadbury was meeting with

stakeholders, leaders in the Muslim community to assure them on the company's commitment to follow all Malaysian halal principle guidelines and also to ensure that Cadbury products undergoes the best testing practices. Short after, the Department of Islamic Development Malaysia (JAKIM) announced that the fresh test results indicate no traces of porcine contamination in 11 samples of hazelnut and roast almond chocolate products.

The issue ended when JAKIM declared Cadbury chocolates are halal, in which Cadbury Malaysia remains confident that there are no porcine or pork-related ingredients in its chocolates, and stands by its halal certification (Musa, 2016). At the same time, Cadbury Malaysia can stand with the Halal certification granted by JAKIM and carry out usual activities also working with consumers to help build an understanding that Cadbury products are suitable for consumption and maintaining the halal status. Public also was assured not to be worried with the application of Halal logo and label from the Cadbury and it will be under the constant monitoring to ensure the Halal procedures in its compliance.

However, based on the issue, a few questions come into consideration in which related to consumer especially among Muslims. As we all know, majority of consumers in Malaysia are Muslim. Halal logo as one of the label applied in certifying the Halal of the product especially food products. The information that has been disseminated from the platform of social media that is widely spread becomes a major influencing factor among consumers to determine the satisfaction of the Halal certification that has been granted. The validity, legality and recognition of Halal logo is questionable.

Starbuck's Case

Another halal-related controversial issue is Starbucks. Starbucks Malaysia is operated by Berjaya Starbucks Coffee Company Sdn Bhd, which is a licensee of Starbucks Coffee International. In contrast with Cadbury issue, the Starbucks issue arise when a viral message which is being spread on social messaging platform WhatsApp, claimed that several of Starbucks' drinks were haram (not permissible in Islam). The Starbucks' drinks were said to be contaminated with E471 (Emulsifier 471) and a food additive of porcine origin. The people's concern over the halal status of the coffeehouse chain arose as the rumour which went viral all over the social media casting doubt over the ingredients used for making its cakes and drinks. In respond to the rumour, JAKIM has confirmed that all beverages and food offered at Starbucks Coffee stores in Malaysia are halal and safe for Muslims to consume.

Nevertheless, an email had recently resurfaced again claiming that Starbucks food and beverages are actually haram. The email appeared to have been existed for several years already. In this issue, JAKIM further stressed that it is not within JAKIM's power to stop the spread of rumour of the halal's status of Starbuck. The Starbuck itself is the only one who has the authority if to take legal action against those who spread the rumour. JAKIM already done their part to inform the public that Starbuck Malaysia is certified halal and the certification of halal is never been revoked as claimed earlier.

However, JAKIM urged the public via its *Bahagian Hab Halal* Facebook page, to not be fooled by the scam and stop disseminate untruth news which could cause confusion and misperception to the consumer, particularly Muslims. JAKIM further stated that the public might visit the Halal Malaysia Official Portal to find out the halal status of a certain product.

Auntie Anne's Case

In 2016, Auntie Anne is another franchise company from The United States of America (USA) which was caught in halal-related controversial issue. For several reasons, the Department of Islamic Development Malaysia (JAKIM) previously denied halal certification application by the popular pretzel chain Auntie Anne. The rejection is due to the presence of the word “dog” on one of its food item namely Cheese Pretzel Dog and Jumbo Pretzel Dog. It resulted to their application for halal certification had failed due to, among others, concerns over the name of its popular sausage products, namely “pretzel dogs” in their menu which contains the word “dog”. Using the word “dog” in the food menu is an offence under Section 3.7.4 of the Malaysian Halal Food Guidelines which states that “halal food and halal artificial flavor shall not be named or synonymously named after non-halal products such as ham, bak kut teh, bacon, beer, rum and others that might create confusion”. For the strong reason of uncertainty and questionable issue, Auntie Anne's was asked by JAKIM to change the name of its "Pretzel Dog" to "Pretzel Sausage" in order to receive a halal certification (The Star Online, 2016). Subsequent to the halal certification rejection by the institution, the company changed the name of its “pretzel dog” to “pretzel sausage” (Malaymail Online, 2016) in an effort to obtain the halal certification.

Dr Sirajuddin Suhaimee who is a Halal Division Director at JAKIM said the halal status application had failed due to reasons such as incomplete paperwork, implying that the issue the word “dog” was not the main reason for JAKIM to deny the halal certification application by the popular pretzel-chain. In regard to the word “dog” in the food menu, Dr Sirajuddin further assert that “dogs are considered unclean in Islam and the name is not suitable for halal certification”. Therefore, US pretzel chain Auntie Anne made announcement that the company has changed the name of its “pretzel dog” to “pretzel sausage” following to the rejection of halal certificate by JAKIM. Farhatul Kamilah Mohamed Sazali who is the company's quality assurance and halal executive said the name was changed to meet the requirements set by the country's halal authorities. She further emphasized that the company was striving to pass the stringent halal audit in order to show the full commitment of getting and applying for the Halal status. Subsequent to the positive action taken by the company, JAKIM has awarded the pretzel-chain company Auntie Anne as halal certificate holder.

Analysis of The Unreported Cases

Based on the three unreported cases mentioned above, all now are free from any claim of producing non-halal food product even though it were not brought to the court for any hearing process. According to JAKIM, the manufactures from Cadbury, Starbuck and Auntie Anne can continue to serve the food as usual based on the halal certification granted earlier as it was proven cleaned from any manipulation.

However, in the very beginning when the cases blowout, the response from the Muslim consumer was significant. Muslims felt that they have been fibbed by the trusted manufactures who manipulated their belief by misleading the permission of halal granted earlier. The Muslim's confidence in halal label was not taken seriously by them. In that situation, it seems that halal certificate is a simple matter with no sense of responsibility and unethical to ensure the halal itself from being manipulated. Muslims took this issue seriously. Thus, the respected manufacturers tried their best to deny all the untruthfulness of the said claimed with due respect with JAKIM in order to gain back the Muslim's belief and confidence to their food products.

From the cases, it appears that the halal certificate was not revoked by JAKIM. It was just suspended and will be re-awarded after all the requirements are complied with. Hence, during the suspension period, the products cannot be labelled as Non Halal. Furthermore, in most of the cases, the allegations made only based on rumors and has been made viral by netizen through the social media. During the viral stage, we cannot punish the business, as the claim is normally baseless. It should be appreciated if the consumers lodge a proper report to the respective authoritative bodies and further wait for their investigation.

While in the case of Cadbury as well as other cases too, to this date, there is no specific law on halal. This halal related issue is regulated by various statutes such as Food Act 1983, Animal Act 1983, Trade Description Act 2011, Consumer Protection Act 1999, Custom Act 1967 and local Government Act 1976. These are among the acts that are relevant and applicable in monitoring and enforcement of halal. In fact, any issuing manufacturers who violates the law in force may cause the halal logo and certification to be suspended or withdrawn. The halal certificate was suspended by JAKIM for investigation purposes. At this stage, there are many issues have been raised up by Muslims in the sense of halal itself especially when these cases were not charged legally and brought to the court. However, JAKIM urged that there was no need to do such a court processes as the procedures taken by JAKIM with the help of other recognize bodies such as Ministry of Health (MOH) had clarified the evidence that the manufacturers are free from any halal issue as claimed by certain people or maybe group of people.

As in the case of Starbuck, based on the false claim made earlier, Starbucks' drinks were said to be contaminated with E471 (Emulsifier 471) and a food additive of porcine origin and it is consumed in another countries. However, JAKIM stressed that the management and control of raw materials vary according to countries. Malaysia is the main hub halal country in the world and it is very important to ensure the validity of any halal logo and certificates once granted. In this case, Starbuck is one of the holder of Malaysian Halal Certification Certificate. All procedures of ensuring the halal requirement and procedures of food products from the raw materials and ingredients and related processes has to comply with the Syariah Specialist and Food Technology placed under JAKIM.

While in Auntie Anne's case, the effort made by the management of the company to change the name of the famous and well known food product from "pretzel dog" to pretzel sausage" described the full commitment from such a big company to ensure the compliances of Halal certification. It shows the importance for the manufacturer to show the effort to ensure the Halal certificate granted to them is in compliances in any situations.

From the analysis, most of the cases settled out of court. This revealed that JAKIM has insufficient human resource to prosecute the case before the court although the laws empowered JAKIM to do so. Unfortunately, JAKIM still rely on the expertise from KPDNKK to prosecute after investigation made. Therefore, it is about time for JAKIM to have its own prosecution officer.

From these cases, it also clearly shows that there is various existence of Halal laws that had been breached by the company. Therefore, the cooperation and coordination from all relevant agencies are necessary. For example, in Cadbury case, Food Act 1983 and its regulations had been breached when the ingredients of the chocolate contain pig DNA and this ingredient is purely prohibited in Muslim food without any justification. It also breached the Trade

Description Act 2011 when they fail to disclose the ingredients genuinely in the label of ingredients itself. This situation lead to Muslim's trust and confidence in believing of the halal product been produced by the company in which in the first place has been granted the halal certification.

Conclusion

To note, the halal certification is a voluntarily basis and open to all applicants irrespectively of their religious or nationality. No party is obliged to apply for Halal certification. However, only qualified applicants complied with all rules, procedures and guidelines are eligible to be granted the certificate by Halal Certification Malaysian Certificate to use the authorized halal logo on the products as well as services. All factor need to be taken into consideration before the application is permitted by JAKIM and it is not easy to be licensed the halal logo and certification. Once granted, it is mandatory for the manufacturer to ensure the reliability and recognition of the halal certificate and avoid any manipulation and misleading activities. However, the absence of certification does not mean that the products are not Halal.

Furthermore, halal certification is very important especially in business sectors. Thus, the integration and coordination in compliance with the halal procedure among the manufacturer in businesses will ensure the reliability of halal certification itself. As mentioned above, halal is a key consumer issue and it cannot be manipulated in any ways. However, a comprehensive law is futile without effective implementation of the law.

There are some weaknesses in the enforcement of the law, which lead to various manipulation of the legislation. If left unchecked, this would diminish the customer's trust on Halal logo and JAKIM's credibility as the sole authority to administer the Halal certification. In this respect, successful implementation of the laws requires effective coordination among the legal enforcement authorities, the industry, and consumers.

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