

**HALAL REPRESENTATION AND REGULATORY ENFORCEMENT:
A CASE REVIEW OF JMJ FOOD & BEVERAGES SDN BHD v MOHAMAD ZUKRILLAH
ISMAIL & ORS [2016] 4 CLJ 368**

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ABSTRACT

This paper examines the Malaysian case of JMJ Food & Beverages Sdn Bhd v Mohamad Zukrillah Ismail & Ors, which involved issues relating to halal representation, regulatory enforcement and consumer protection. The dispute arose following an enforcement operation conducted against a non-halal restaurant that advertised a “Ramadhan Buffet” promotion. The paper discusses the facts of the case, the judicial reasoning used by the courts, and the implications of the decision from the points of view of halal certification, Islamic jurisprudence, consumer protection, health implication, health implication and the enforcement of the law. The case illustrates the complexities of protecting consumers, maintaining integrity of the halal product and upholding business rights and procedural fairness in Malaysia's halal regime. It also reminds readers of the need for clarity in the regulation regarding religious terminology in commercial promotions, especially by non-halal establishments. The paper concludes that ‘good governance’ in the context of halal needs to be balanced, protecting consumers' rights, and be fair and accountable in how it is enforced. Higher transparency in enforcement practices and regulatory guidelines would further boost the trust of the public and foster the growth of the Malaysia's halal ecosystem.

Introduction

Halal is not just about halal ingredients, but also a fundamental requirement for Muslims. It includes all the activities of source, preparation, handling, storage and marketing of food products. In Malaysia, the halal governance has matured to become one of the most developed in the world, and is backed by legal instruments, regulatory bodies and certification systems. The Halal industry is a source of great economic value to the country and has a significant role in safeguarding Muslim consumer interests.

With a growing awareness of the need to be halal compliant, the need for regulatory enforcement has grown. Halal logos, certification and statements by companies are essential for consumers to decide what to buy (Jamaliah et al., 2024). Any action or claim that could lead consumers to believe that products are not halal will have a negative effect on public trust in halal. With the importance of halal information in shaping consumer choices, companies should ensure that their marketing efforts and claims do not lead to any confusion about the halal certification of their products and services.

In the modern commercial world, it is common to use cultural and religious imagery in marketing campaigns to draw the user base. Words like “Ramadhan Buffet” or “Buka Puasa Promotion” can impact consumers' perception of the appropriateness of the food product/ service for consumption by Muslims. While these may not actually make the statement “halal,” they can raise expectations from the consumer about the status of halal among the establishment. This poses significant legal and ethical issues about how much religious language can a business use without misleading impression.

JMJ Food & Beverages Sdn Bhd v. Mohamad Zukrillah Ismail & Ors [2016] 4 CLJ 368 is a seminal Malaysian case on enforcement aspect relating to halal issues. The conflict had kicked off with the halal police's raid on a restaurant Tandoor Grill, which proudly identified itself as ‘non-halal’ and promoted a Ramadhan Buffet. The case stirred up much legal and public discussion on issues of halal representation, consumer protection, administrative powers and fairness in enforcement.

This case is important because it demonstrates a conflict between the rights of consumers and the rights of business. The regulation has a right to ensure that there are no misrepresentations made in a commercial setting, but at the same time regulation must adhere to the principles of legality, proportionality and procedural fairness in the enforcement process. Thus, this paper will aim to review the facts and judicial rulings in this case and critically analyse the issues raised considering both the halal certification and consumer protection aspects, health implications, Islamic jurisprudence and regulatory enforcement.

Background of Halal Certification and Legal Framework in Malaysia

The main body that regulates the halal certification system in Malaysia is JAKIM along with State Islamic Religious Department (Nazim & Yusof, 2023). While halal certification is not mandatory at this point, companies that opt to label their products or services as halal have to adhere to detailed legal and Shariah principles (Hasan & Latif, 2024). The Malaysian halal framework aims to provide transparency, consumer confidence and protection of the integrity of halal products in the supply chain.

The main legislation that regulates false and misleading trade descriptions in Malaysia is the Trade Descriptions Act 2011. The Act is supported by the Trade Descriptions (Definition of Halal) Order 2011 and the Trade Descriptions (Certification and Marking of Halal) Order 2011 in the context of halal. The laws governing these instruments have banned the business from making representations that can lead consumers to think that products or services are halal if they are not (Asyraf et al., 2023). Enforcement officers have powers to investigate, inspect and seize material if there are reasonable grounds to believe that an offence has been committed.

In addition to the legislations that are specific to the halal, there are other laws that when taken together, have an impact on the governance of halal matters. Food safety, hygiene and labelling is regulated by the Food Act 1983 and Food Regulations 1985; the Consumer Protection Act 1999 protects consumers from misleading practices and unfair conduct. In combination, these laws supplement the regulation of halal food stuffs by providing consumers with the correct information on food stuffs and services.

JAKIM's responsibilities extend beyond halal certification to include the development of halal standards, issuance of guidelines and coordination of halal governance at the national level. State Islamic Religious

Departments (JAIPk) help to monitor compliance and provide assistance in enforcement activities in their respective areas. For the implementation of the laws relating to halal, it is important that these agencies collaborate with the Ministry of Domestic Trade.

The definition of halal in the Trade Descriptions (Definition of Halal) Order 2011 is detailed. It stipulates prohibitions on the presence of substances in food and products, prohibits them from being contaminated by other non-halal substances and requires that they be prepared in accordance with the Islamic rules. Therefore, the consideration of halal issues is not only related to ingredients, but also involves the steps of sourcing, handling, storing and preparing the food.

The Government's commitment to safeguard the integrity of the halal system and protect consumers' interests is clearly shown in the Malaysian legal framework. However, the application of enforcement measures should be in accordance with the principles of fairness, proportionality and accountability. The present case is an example of the difficulties encountered by the regulators in balancing consumer protection with halal governance and the rights of business operators.

Fact of the Case

JMJ Food & Beverages Sdn Bhd was a restaurant in Ipoh named Tandoor Grill. The restaurant was not certified as a halal restaurant because alcoholic drinks were sold at the establishment. However, there was evidence that many of the food ingredients used came from food suppliers with halal certification. The restaurant in July 2013 was marketing a Ramadhan Buffet. On the promotional materials, words like “Selamat Berbuka Puasa”, “Ramadhan Buffet” and “Have Your Buka Puasa Gatherings at Tandoor Grill” were used. These ads were advertised using banners and brochures.

Subsequently, a complaint was made to anonymous in the Perak Islamic Religious Department (JAIPk). The complaint stated the restaurant was advertising a Ramadhan buffet and alcoholic beverages were openly sold on the premises. Then, a joint operation was carried out by JAIPk, JAKIM and the Ministry of Domestic Trade after the complaint was lodged. There were about 30 to 35 officers involved in the mission. Members of the media were also present during the inspection. Officers conducted a search of the premises, including food preparation and storage areas, checked refrigerators and freezers and took promotional materials.

The restaurant owners argued that the restaurant was no halal restaurant and that it was open as such. They said the action was "unjustified, causing reputational harm and chaos in the business world". Hence, the company had filed a civil case against the respondents for trespass, abuse of power and mala fide conduct.

Summary of The Case

The High Court rejected the appellant's argument and found that the respondents could enter and inspect the premises pursuant to Section 40 of the Trade Descriptions Act 2011. The court found that the appellant failed to establish that “mala fide conduct” or “unlawful trespass” occurred. The majority of the Court of Appeal upheld the High Court's ruling. Most agreed that mention of some Ramadan related activities might leave room for confusion among Muslim consumers and thus warrant investigation by enforcement agencies.

Most of them also agreed that the onus of proof for bad faith lies with the appellant. Without any acceptable proof of bad faith, the charges of bad faith may not have prevailed. The dissenting judgment was, however, quite critical. The dissenting judge noted that the restaurant had insisted it was not halal, and it had never sought the halal certification. The dissent stated that the Trade Descriptions Act 2011 was intended to deal with false halal claims but not those businesses that clearly identified themselves as non-halal businesses.

The dissent also raised issues regarding the need and legality of the enforcement action, indicating that the authorities had gone beyond their statutory powers. The case is of special value in the advancement of Malaysian halal jurisprudence, due to the differences in judicial opinions.

Means of Evidence

Documentary Evidence

The most important documentary evidence consisted of the promotional banner and brochures used by the restaurant. These materials contained references to Ramadan and breaking of fast activities. The enforcement authorities relied heavily on these documents in arguing that the advertisements could potentially mislead Muslim consumers.

Additional documentary evidence included inspection reports, seizure records, monitoring notices and correspondence relating to the complaint received by the authorities. These documents were relevant in determining whether the enforcement operation was conducted in accordance with statutory powers.

Physical Evidence

Physical evidence included the seized promotional materials as well as alcoholic beverages discovered during the inspection. The authorities regarded the presence of alcohol as relevant to their investigation. However, the restaurant argued that the presence of alcohol was unsurprising because it openly operated as a non-halal establishment. The physical inspection of food storage areas, refrigerators and freezers also formed part of the evidentiary basis relied upon during the operation.

Expert Witnesses

Witness testimony played a significant role in the proceedings. Representatives of the restaurant testified that they had informed enforcement officers that the restaurant was not halal-certified and that no halal logos or certification marks were displayed on the premises. Meanwhile, enforcement officers explained the reasons for conducting the operation and described the manner in which the inspection was carried out. The court considered these testimonies alongside the documentary evidence in determining whether the respondents had acted within the scope of their statutory authority.

The evidential value of the information provided in this case was pivotal in deciding if the enforcement body had reasonable grounds to carry out the inspection. The importance of the promotional banners and brochures was the highest of all the kinds of evidence because they included the representations that were the crux of the controversy. These items were materials that could present factual evidence that was not just based on the memory of the witnesses before the court.

In addition, inspection reports and seizure records were of assistance to the respondents to establish that the operation was carried out under statutory authority. Generally, these contemporary records have a high level of reliability as they are documents that are prepared during or immediately after the events they describe. Therefore, the court has given significant importance to the documentary evidence and oral evidence while considering the legality and propriety of the enforcement action.

Issues Involving Halal Forensic

Islamic Jurisprudence

There are several principles that were applicable to this case under Islamic jurisprudence. One of the most crucial is *Sadd al-Dhara'i* which means blocking the means which can cause harm (Fairuz & Khairuldin, 2024). According to this principle, if use of Ramadan related terms poses a potential risk of confusion for Muslim consumers, then preventive intervention may be warranted. This is in line with the intention of avoiding potential deception, before it is actually caused.

Maqasid al-Shariah, specifically the preservation of religion (*Hifz al-Din*) is another relevant concept. For Muslims the availability of correct information on the halal status of food and services is crucial to ensure they can perform their religious duties (Jalaluddin et al., 2024). Hence, the function of halal certification and enforcement of regulations also plays an important role in protecting religious practice and the public's trust in the halal system.

The principle of honesty in commercial transactions is equally significant. Islam prohibits deception (*tadlis*) and encourages transparency in business dealings. In the present case, the central issue is whether the restaurant's promotional campaign created a misleading impression regarding its halal status. The majority judgment considered that confusion among Muslim consumers was possible, whereas the

dissenting judgment viewed the restaurants openly declared non-halal status as sufficient to negate any realistic possibility of deception.

Another important principle is *Maslahah Mursalah*, which refers to considerations of public interest that are consistent with the objectives of Shariah. Regulatory intervention aimed at preventing consumer confusion may be justified on the basis that it protects Muslim consumers and preserves confidence in halal governance. At the same time, public interest must be balanced against the rights of businesses to operate without unnecessary interference.

The principle of *Al-Yaqin La Yazulu bi al-Shakk* (certainty is not removed by doubt) is also relevant when analysing the dissenting judgment. Since the restaurant openly identified itself as a non-halal establishment and did not display halal certification, it may be argued that certainty regarding its status should not be displaced solely by assumptions arising from promotional terminology. This perspective supports the view that enforcement actions should be based on clear and convincing evidence rather than speculation.

Finally, Islam emphasises the concept of *amanah* (trustworthiness), which applies to both business operators and regulatory authorities. Businesses are expected to communicate honestly and avoid misleading representations, while enforcement authorities are entrusted with exercising their powers fairly, proportionately and within lawful limits. From an Islamic perspective, effective halal governance requires a balance between protecting consumers, preserving halal integrity and ensuring procedural justice.

Halal Management

From a halal certification perspective, the case raises important questions concerning the scope of halal-related representations. The majority judgment reflects a precautionary approach to consumer protection, whereby references to Ramadan and breaking of fast activities may lead Muslim consumers to assume that the food offered is suitable for Muslim consumption (Shahriman et al., 2026; Miele et al., 2023). This approach supports the objective of maintaining public confidence in the halal certification system and justifies regulatory intervention where there is a risk of misunderstanding regarding halal status.

Nevertheless, the dissenting judgment raises concerns regarding legal certainty. The restaurant openly identified itself as a non-halal establishment and did not display any halal logos or certificates. According to this view, enforcement action should primarily target explicit false halal claims rather than businesses that have clearly disclosed their non-halal status. If businesses remain subject to regulatory scrutiny despite making no halal representation, uncertainty may arise regarding the permissible use of religious terminology in commercial promotions.

The case therefore illustrates the tension between preventive regulation and business certainty. It highlights the importance of effective halal communication by business operators. Even in the absence of halal certification, businesses should ensure that promotional materials accurately reflect the status of the establishment and do not create misleading impressions. From the perspective of halal assurance systems, transparency remains a fundamental principle. Businesses should implement internal review procedures for marketing materials to ensure consistency between promotional representations and actual business practices. At the same time, regulators should provide clearer guidelines regarding the use of religious terminology by non-halal establishments in order to promote compliance, minimise disputes and strengthen confidence in halal governance (Saleh & Rajandran, 2024).

Standard, Act and Enforcement

The present case highlights the practical application of Section 40 of the Trade Descriptions Act 2011, which grants enforcement officers the authority to enter premises, inspect documents and seize relevant materials where reasonable grounds exist to suspect an offence. The scope and exercise of these powers became one of the central issues considered by the court.

The Trade Descriptions (Certification and Marking of Halal) Order 2011 further regulates the use of halal certificates and halal marks in commercial activities. Although the restaurant did not display any halal logo or certification, the authorities argued that the use of Ramadan-related terminology justified

investigation due to its potential effect on consumer perception. This reflects the preventive approach adopted by regulators in safeguarding halal integrity and protecting consumers from possible confusion.

However, the enforcement action came under criticism for the way in which it was carried out. There was a concern for reputational risk from the presence of media during the inspection as there was no finding of wrongdoing at the time of the operation. The timing of the raid, during business hours, was also called into question, due to the impact it could have on business operation and financial performance. Also, some allegations during the inspection raised concerns about the hygiene practices, which led to concerns about professionalism and procedural standards.

This case shows that the enforcement is not just about having the law; it's about doing the job well. Regulatory agencies have a responsibility to ensure that investigations are conducted fairly, fairly and proportionately. Reliance on enforcement institutions requires both the presence of legal powers and the exercise of them. The higher the level of regulatory legitimacy, the more transparent, accountable and respectful of the rights of business operators it is felt to be, whilst it is also effective in protecting the interests of consumers.

Health Implication

The main point of contention was halal representation and enforcement, but health issues were raised too. At the inspection, it was alleged that enforcement officers had not fully complied with the hygiene requirements when entering the food storage areas. The food products handling and contamination during operation was raised as issues.

A tight relationship exists between food safety and halal assurance in the sense of *halalan tayyiban*, meaning that food should be not only halal, but also good, safe and hygienic (Nugroho et.al, 2024). For this reason, contemporary methods of halal assurance are frequently combined with food safety management systems, like Good Manufacturing Practices (GMP) and Hazard Analysis and Critical Control Point (HACCP). The aim of these systems is to reduce contamination risks and to assure food products are safe from initial farm to final consumption.

It illustrates the need to adhere to the proper hygiene standards when enforcing in food premises. Inspection procedures will be undertaken in a way that does not compromise sanitation standards and reduce the risk to food safety. If they are not followed, they can jeopardize product quality, hamper business operations and erode trust in regulatory institutions.

As a broader lesson, the case shows how intricately intertwined the fields of halal governance and public health are. Good halal regulation ensures cleanliness, safety and transparency in the food industry, also safeguarding religious interests and consumer welfare. In this regard, it is crucial that regulatory measures are implemented in accordance with the legal provisions and recognized food safety standards to ensure public confidence and preserves the integrity of the halal system.

Impact for Malaysia Halal Industry

The case is of great importance to the Malaysian halal industry. Firstly, it shows the importance of businesses in exercising caution when using marketing terms that may be linked to any Islamic religious practices. Some expressions can be misunderstood and raise regulatory questions even though the product does not explicitly state its halal claim.

Second, the case reminds us of the need for consistency in the regulation of the use of terms like Ramadhan Buffet, Buka Puasa and other words. Having clear guidelines would help businesses know what is expected for compliance and minimize confusion.

Third, the case emphasizes the need to build trust in the halal governance. Consumers have to have confidence that the regulators are doing everything they can to ensure the integrity of Halal, and to uphold the principles of fairness and due process.

Lastly, the case helps advance the jurisprudence in the Malaysian context. It serves as an important reference point for future discussions concerning the limits of enforcement powers, consumer protection and halal representation.

Conclusion

This case, *JMJ Food & Beverages Sdn Bhd v Mohamad Zukrillah Ismail & Ors*, is one of the more important Muslim cases in Malaysia with a concerned halal concern. The issue was whether a non-halal restaurant's advertisement of a Ramadhan Buffet merited action in the circumstances under the Trade Descriptions Act 2011.

Most of the consensus agreed that a proactive strategy was needed which prioritizes consumer protection and upholding the integrity of halal. The dissenting opinion, on the other hand, emphasised legal certainty, the meaning of the statute and the extent of enforcement power. This dual perspective is important for both learning about the development of halal law and policy.

The case highlights the difficulty of balancing the various interests of consumers, business and regulatory authorities, and religious considerations from the perspectives of halal certification, consumer protection, health implications and Islamic jurisprudence. With the help of future improvements in regulatory guidance and enforcement procedures, public confidence in the halal system in Malaysia will be reinforced and fairness and accountability will be achieved.

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