YOUR IACL Newsletter November 2019

Dear IACL Members,

Warm welcome to the International Association of Consumer Law, November 2019 Newsletter. It covers as usual the news from the jurisdiction, conferences, journals, call for papers and articles. The purpose of the newsletter is to keep members up to date with the latest developments in our association and across the world.

Please do circulate it to any new person you think may want to take part in our activities and become a member. Please feel free to also send your news items via email to [serkankaayaa@yahoo.com](mailto:serkankaayaa@yahoo.com) . For any items that may not be able to wait that long, you can contact us to post on our website <http://www.iacl.net.au> or our Facebook page <https://www.facebook.com/IACLaw/>.

Christine Riefa, on behalf of the IACL board.

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**Welcome to our new and current board members elected in Indianapolis**

At the 2019 board meeting of the International Association of Consumer Law (IACL) held in Indianapolis in the United States of America Professor Byung Jun, Lee was nominated to serve as a board member. The rest of the board, in so far as present at the meeting, agreed with the nomination and during the subsequent election he was appointed as a member of the Board. Professor Byung-Jun Lee obtained his PhD in Germany Tübingen in 1999 and started in 2000 at the Pusan National University as a Professor. Since 2003 he has been working at the Law School of the Hankuk University of Foreign Studies (HUFS) in Seoul, South Korea. He was the Director of the Consumer Law Centre of HUFS in 2016 and the Head of the Law Research Institute of HUFS from March 2017 to February 2019. He is the author of many publications on Korean consumer law and the law of e-commerce. He is currently the President of the Korea Consumer Law Society and especially a member of the Korean Commission for the Reform of the Consumer Protection Act for e-commerce, the Act on e-documents and e-commerce and the Act on e-learning. In addition, he works as a mediator for the Korean Institution for Mediation in E-Commerce and the Institution for Online Advertising and for the Autonomous Mediation Committee. He was a member of the Korean Delegation to the UNCITRAL Working Group III (Online Dispute Resolution).



*Prof. Dr. Byung Jun, Lee*

The General Assembly in Indianapolis reconfirmed the current members of the Board, including the president (ie, Professor M Kelly-Louw) and vice-president (ie, Professor M.B.M Loos), for the next two years. The next elections will take place at the 18th International Conference to be held in 2021.



*Board and advisory panel members present at the 2019 IACL conference*

**17th international conference of the International Association of Consumer Law held in Indianapolis, United States of America**

The 17th international conference of the IACL took place at the Indiana University Robert H. McKinney School of Law from June 13 through June 15, 2019. The event was organized around the theme of “Innovation and the Transformation of Consumer Law”, and brought 92 attendees from 27 different countries. Professor James P. Nehf, an IACL board member, served as the host of the conference. The previous IACL conference took place in Porto Alegre, Brazil, in 2017 under the leadership of Professor Claudia Lima Marcus, an IACL board member. This was the first time that the biennial meeting has been held in the United States.

“Our international guests were very complimentary of the city, the law school, and all of our staff who worked on the event”, Professor Nehf said. The event provided a forum where international scholars, practitioners, representatives of consumer organizations, public authorities, and business could gather to present and discuss issues relevant to consumer protection in many sectors and from various perspectives. Topics explored included “Post-Brexit Consumer Law”, “The Algorithms’ Revolution and the Consumer’s Right to Explanation”, and “Smart Contracts and Consumer Protection”, among many others. During the conference, scholars and practitioners presented their research during breakout workshop sessions. The positive review received in the United States also bears testament to the fact that the conference was a great success (see, eg, <https://pubcit.typepad.com/clpblog/2019/06/a-terrific-conference-and-a-terrific-talk.html>). Several papers were selected for publication in the *Indiana International & Comparative Law Review*.  Other papers will be included in a book being edited by IACL board members Professors Dan Wei, Claudia Lima Marques, and James Nehf. A link to abstracts of the conference papers can be found on the IACL website (see**:** [https://www.iacl.net.au/wp-content/uploads/2019/07/Abstracts-of-Presenters-2.pdf](https://iacl.us9.list-manage.com/track/click?u=455f43579adedaf3d83a3bfd7&id=3b6906980d&e=7429d73d10)). Photos of the event are found at link: <https://www.flickr.com/photos/indylaw/albums/72157709130388177>



*Dinner gathering at the Westin in downtown Indianapolis*

Attendees took part in a welcome reception at the Indiana Historical Society, a dinner gathering at the Westin in downtown Indianapolis, and a visit to Dallara IndyCar Factory, where those who chose to could take a ride in an IndyCar or a NASCAR through the streets of Speedway, Indiana. IU McKinney student Courtney Einterz served as the Conference Coordinator, and handled all communications, kept track of abstracts, registrations, papers, and worked throughout the planning stages, which began in December 2017. She was presented with the IACL's Distinguished Service Award.



*Visit to Dallara IndyCar Factory*



*Prof James P. Nehf and Courtney Einterz*

Ms Ogochukwu (Ogo) Monye, a law lecturer at the University of Benin, Nigeria and a doctoral candidate at the University of Cape Town, South Africa was awarded the 2019 *Udo Reifner Prize* for the best abstract by a young doctoral scholar for her paper titled “Identification Management in Nigeria: Innovations for Financial Inclusion,” which discussed the important issue of lack of documentation that impedes numerous Nigerians from accessing financial services. The abstract of her paper follows below:

In Nigeria, about 41.6 percent of the population of the country lacks access to formal financial services according to the Central Bank of Nigeria. Studies have shown that apart from factors such as distance to banks, financial illiteracy, irregular income, unemployment and complexity of account opening; lack of proof of identity documentation debars a significant number of persons from accessing finance. This paper seeks to address the last issue as a significant factor of financial exclusion in order to help citizens more easily fulfil mandatory Know-Your-Customer (KYC) checks as well as facilitate access to additional financial products including loans, pension and insurance. Significantly, this is in line with goal 16.9 of the United Nations Sustainable Development Goals (SDG) which envisions a legal identity for all by the year 2030. Notably, the National Identification Management Commission (NIMC) was established since 2007 to oversee all matters of citizens’ registration. So far, the commission has only succeeded in registering about 30 million Nigerians out of the total national population of approximately 198 million. The doctrinal method of research is employed as mostly legal literature and regulatory guidelines and policies are utilised. Furthermore, the author will draw examples from the regulatory landscape of other jurisdictions such as Pakistan, Peru and Uganda where positive strides have been achieved in the sphere of national registration. In Pakistan for instance, 98 per cent of the target population has been captured in the national identification programme including socially disadvantaged groups aided by a wide array of mobile registration agents comprising hikers, van drivers, mountaineers, bikers and skiers to locate citizens even in the most remote locations. Similarly, Uganda has attained 99 percent registration even though the programme was only commenced in the year 2014. The author proposes a self-sustaining universal national identification system that provides Nigerians with the needed foundational identity to access financial services with a view to achieving financial inclusion. The paper proposes an efficient national identification system that is cost-effective, inclusive and recognises the unique socio-cultural and demographic characteristics of Nigeria. The shortcomings of the existing identification system such as funding strategies, mode of registration and logistics management are highlighted. The paper proposes more effective means to reach excluded populations through an efficient national identification system founded on new and existing technology including biometrics, blockchain and the Internet of Things. The paper is expected to contribute to the growing body of literature on improving national identification and the global conversation on financial inclusion bolstered on an effective national identification system. Furthermore, the recommendations are intended to foster socially inclusive gains in several other sectors including agriculture, health and social security. Finally, even though this work is specifically focused on Nigeria, the findings offer veritable lessons for other nations grappling with financial exclusion by reason of inadequate or unsuitable identification systems.



*From left to right: Prof F Monye (board member of the IACL),*

*Prof M Kelly-Louw (president of the IACL), and Ms O Monye,*

*recipient of the 2019 Udo Reifner Prize*

***2019 Udo Reifner Prize***

The *Udo Reifner Prize* was introduced for the first time at the 2019 IACL conference that took place in Indianapolis. Prior to the introduction of this award, a general award was given to the best paper abstracts submitted by young/doctoral students for the IACL conference. Awards were given for the best abstracts at the IACL’s Sydney Conference (2013) and the Amsterdam Conference (2015) respectively. At the 2017 Porto Alegre Conference the board decided to name the award the *Norbert Reich Prize* in honour of the late Professor Norbert Reich for hiscontributions for consumer protection and economic development. At the 2019 Indianapolis Conference we named the prize in honour of Professor Udo Reifner for his loyal support of the IACL’s work and conferences over the years and his valuable international contributions in the area of consumer law, particularly consumer credit law.

Prof. Dr. Udo Reifner (born 1948) studied sociology and law in Berlin and Marburg. He is the founder and long-term Director of the independent institute for financial services (*iff* reg. ass.). His dissertation was on the law of consumer credit 1976. His first project with the EU was in 1983 on new forms of consumer legal advice. In 1981 he obtained the then only chair on consumer law in Germany to 2015 at the Hamburg University where he succeeded Professor Norbert Reich. After his retirement in Germany he was professor at Trento University for three years. He was a guest professor with a focus on financial consumer law at the McGill University, Montreal (1986), Université de Louvain-la-Neuve (1990), De Paul University, Chicago (1994), Birmingham University (1997), and the New York University (Spring 2000). He attended the EU-Consumer Law conferences in the 1980s, published an EU-Report together with Thierry Bourgoignie, Nick Huls, Thomas Wilhemsson, Norbert Reich, David Caplovitz. In 1989 he organised his first EU-conference on responsible financial services followed by conferences in Birmingham, Strasbourg, Bergamo and Gothenburg. From the very beginning of IACL he became an active member of it. His over 280 [publications](http://www.money-advice.net/media.php?id=2174) are focussed on financial services law and consumer debt, sociology of law and the history of German law under fascism. In 2017 he summarized his interdisciplinary research in three Volumes on the “economics, sociology and law of money” with a fourth volume on the 2008 financial crisis. Together with the US based NCRC he initiated the Coalition for Responsible Credit ([www.responsible-credit.net](http://www.responsible-credit.net)), with the University of Trento the European Social Contract Group (www.eusoco.eu) and recently the Coalition against Usury in Germany ([www.stopwucher.de](http://www.stopwucher.de)). He is member of a number of consumer organisations, was president of the EU financial user committee and served five years as an expert in the advisory board of the German Financial Services Authorities (BAFIN).



*Prof. Dr. Udo Reifner*

1. **ANNOUNCEMENT OF THE IACL’S 2021 CONFERENCE HOST**

The IACL received two excellent bids to host the 2021 conference. The one bid was prepared by Santa Fe city, province of Santa Fe, Argentina, Faculty of Legal and Social Sciences, Litoral National University (prepared under the leadership of Prof Sebastián Barocelli from the University of Buenos Aires) to host the conference in Santa Fe in Argentina. The other bid was to host the conference in Hamburg, Germany and it was prepared by the Institute for Financial Services (IFF) (under the leadership of Dr Sally Peters and Prof. Dr Udo Reifner), an independent non-profit organization which was founded in 1987. After a rigorous voting process by the board of the IACL the bid was awarded to Hamburg. We congratulate the IFF for winning the bid to host the next IACL conference! The call for conference papers and more details regarding the 2021 conference in Hamburg (provisionally scheduled for July 2021) will follow in due course.

1. **NEWS FROM THE JURISDICTIONS**

**MALAYSIA**

**Report by Dr. Ong Tze Chin**,

Senior Law Lecturer, INTI International University, Nilai, Malaysia

The major legislation governing consumer protection in Malaysia is Consumer Protection Act 1999 which came into force on 15th November 1999. Besides that, there are different legislations that provide protection for Malaysian consumers in different areas such as Sale of Goods Act 1957, Hire Purchase Act 1967, Price Control and Anti Profiteering Act 2011, Control of Supplies Act 1961, Trade Descriptions Act 1972, Weights and Measures Act 1972, Direct Sales and Anti-Pyramid Scheme Act 1993 and many others. Since its implementation, Consumer Protection Act 1999 has had six amendments made [2002, 2003, 2007, 2010, 2017] with the most recent one in 2019. The amendments are as follows:

1. Amendment 2002 - listing the types of Future Services Contract gazetted by the Ministry for the purpose of the section 17(1);
2. Amendment 2003 - increasing membership of the Tribunal for Consumer Claims Malaysia’s membership to include members from the judicial and legal services, and increasing the award for claims from RM10, 000 to RM25, 000;
3. Amendment 2007 - widening the scope of the Act to include electronic commerce transactions;
4. Amendment 2010 - expanding existing provisions to ensure the Act remains relevant to changes in trade practices and to provide more protection to consumers. The amendment introduces two new parts:

a) Part IIIA - Unfair Contract Terms which defines the provisions to protect consumers from unfair terms in a standard form contract; and

b) Part XIIA - Committee on Advertisement, which provides power to the Minister to establish a committee to monitor and take necessary action against suppliers with false and misleading advertisements.

(v) Amendment 2017 – deleting the definition of ‘credit instrument’ to include a new Part IIIB for Credit Sale Transaction; and

(vi) Amendment 2019 – increasing the compensation sum of the Tribunal for Consumer Claims from RM25,000 to RM50,000. The latest amendment also increases the criminal penalty for failure to comply with the Tribunals’ award from RM5,000 to RM10,000 and, increase the penalty for continuing offence from RM1,000 to RM5,000. This latest amendment is yet to be gazetted.

The Consumer Protection (Amendment) Act 2017 has marked a significant change on consumer credit sale transactions. Prior to this amendment; there is no governing laws in relation to credit sale agreement for consumers in terms of goods. Consumer credit sale agreement is often left to the bargaining parties to agree on the terms of the contract, upholding the freedom of contact. The existence of unequal bargaining power among businesses and consumer, often leave consumers in a vulnerable position in getting a fair deal for its credit terms. This amendment not only governs a seller as a credit facilities provider, but also any person that provides a credit facility in a credit sale transaction involving consumers. The 2017 Amendment Act also governs the contents of the credit sale agreement to ensure clarity of the agreement. In addition, the ownership of the purchased goods under the credit sale agreement is passed to the purchaser. Despite some of the deficiencies, the 2017 amendment is a much-welcomed measure to fill in the lacuna in consumer credit sale transactions.

**Report by Afida Mastura Muhammad Arif, Daljit Kaur Sandhu & Elistina Abu Bakar**

Faculty of Human Ecology, Universiti Putra Malaysia

**Consumer Law Reforms in Malaysia – Moneylending Law**

Moneylending industry in Malaysia is one of the oldest but still relevant in providing informal financial services to consumers, especially for those who were excluded by the formal financial institution. The industry is regulated by the Moneylenders Act 1951 and licensing of moneylenders under the Act is the main tool to ensure that moneylenders comply with the laws and guidelines. Apart from this Act, the legislation on consumer credit is the Pawnbrokers Act 1972 and the Hire-Purchase Act 1967. Hence, the regulation of consumer credit still adopts a fragmentary approach with piecemeal legislation based on form rather than substance.

The regulated system of moneylending in Malaysia involves three stakeholders; the consumers that borrow money or borrowers, licensed moneylenders who offer loans to borrowers and the Ministry of Housing and Local Government, as the regulator. Licensed moneylenders provide loans for two diverse consumers, first is the micro-financing for small business and second is for the personal financing of individuals. Borrowers can obtain any amount of loans with an interest rate of 12% with collateral or 18% without collateral. Despite running legal business, moneylending industry is often inundated with negative perception and associated with the notorious illegal moneylenders. Such negative perception has made the consumers and small traders fearful of getting loans. In order to remove this stigma, the Ministry has rebranded 4,115 licensed moneylenders as ‘credit community’. Licensed moneylenders were given three months to use the new name and logo, complete with a QR Code on their signage. It is anticipated that the rebranding exercise would raise public awareness on legitimate sources of financing as the new name is more customer friendly. Digitization of moneylending system has also taken place where the Ministry has extended moneylending licenses to electronic payment companies. A mobile application known as ‘i-kredikom’ was also recently launched. The application has four features; to provide brief explanations on the borrower’s rights under the law, search for the nearby credit community premises, file a complaint and check the status of the complaint.

Despite these exciting new updates on the industry, questions remain whether the current law gives sufficient protection to the borrowers. With the challenges of the digital age and consumer protection in financial services, the need for reform of not only moneylending but all consumer credit law is crucial. Realising the need to address these issues, the Central Bank of Malaysia is currently working with several ministries to transform the consumer credit piecemeal legislation to a whole new order of consumer credit law. It is anticipated that the new Act will be implemented next year. The Act will promote a healthy consumer credit market across the board, by providing consumers with equal treatment and protection irrespective of whom they borrow from, including moneylenders.

**MALTA**

**Report by Paul Edgar Micallef**

Senior Visiting Lecturer – University of Malta

**Recent development in consumer law enforcement in Malta**

On the 29th July 2019 following the enactment of Act XVI, amendments to the Consumer Affairs Act and to the Competition Act came into force which radically change the enforcement and sanctions regime under Maltese Law. In substance as a result of these amendments the Director General (Consumer Affairs) (‘DG’) is now required to apply to the Civil Court (Commercial Section) if the DG Consumer Affairs considers that is an infringement of the consumer laws which he enforces. Under the previous regime the DG Consumer Affairs was empowered to impose administrative fines if he considered that consumer laws falling under his remit were infringed, with the aggrieved persons then having the right to contestation such fines before an independent specialised adjudicative forum.

The reason for this change in procedure arose falling a landmark judgement given on the 3rd May 2016 by the Maltese Constitutional Court in a case filed by the Federation of Estate Agents (the ‘Federation’) against the Director General Competition and Office of the Attorney General. In that case the Federation argued that the possibility that as result of the investigations undertaken by the DG Competition, the Federation could be on the receiving end of hefty administrative fine, constituted a breach of its rights under article 39(1) of the Constitution of Malta for a fair hearing before a court since it faced sanctions which effectively were of a criminal nature. Both the court of first instance and subsequently, in appeal, the Constitutional Court agreed with this line of reasoning. Following public consultation process in August 2018, Parliament earlier this year approved amendments to both the Competition Act and the Consumer Affairs Act, whereby in both instances any regulatory measures initiated with the purpose of imposing administrative fines must be referred to the Civil Court whereby the DG concerned is required to apply to the Court seeking a judgement by that Court on the basis of which sanctions can then be imposed.

**Public consultation issued in August 2018 by the Government of Malta on amendments to competition and consumer legislation**

The Ministry for Justice, Culture and Local Government in tandem with the Malta Competition and Consumer Affairs Authority (MCCAA) in August 2018, issued a public consultation proposing amendments both to competition law and to consumer law. The proposed amendments are mainly in response to a judgment of the Maltese Constitutional Court given on the 3rd May 2016 in the case ‘Federation of Estate Agents versus Direttur General (Kompetizzjoni) et. In that judgment the Constitutional Court upheld a request by plaintiffs, declaring various enforcement provisions under the Competition Act enabling the Director General (Competition) to impose substantial administrative fines if there is a breach of competition law, to be contrary to article 39(1) of the Constitution of Malta, since fines imposed by the Director General are of a criminal nature as they are meant to punish non-compliance. According to the Court any decisions to impose sanctions of a criminal nature can only be taken by a Court of law and therefore the provisions under the Competition Act enabling the Director General to impose sanctions are contrary to the Constitution of Malta. In order to address this issue Government published proposals amending both competition law and consumer law, inviting submissions from the general public in relation to these proposals.

**The salient changes being proposed include**:

[1] the review by the Civil Court (Commercial Section) of contestations of any regulatory decisions taken by the Director General, including decisions imposing administrative fines. The amendments envisage that the Director General cannot enforce a decision imposing a fine before the lapse of the timeframe during which any such decision can be contested. If the decision is contested then any such fine can only be collected on the conclusion of the review proceedings before the court, and then only if the Court confirms the decision of the Director General. These new procedure also apply to apply to administrative fines and other regulatory decisions taken by the Director General (Consumer Affairs) in relation to compliance issues concerning the enforcement of consumer law. The Court in either instance has the power to confirm, revoke or vary any administrative fine imposed. The proposed amendments also provide for a further right of appeal from a decision of the Civil Court to the Court of Appeal both on points of law and of fact;

[2] New settlement procedures whereby parties who admit to having acted in breach of competition law, may benefit to a reduced fine of between 10% to 35%. The purpose of this procedure is to encourage settlement discussions leading to voluntary admission of non-compliance in lieu of court litigation; and

[3] The necessity of obtaining a court order prior to the conduct of inspections of commercial premises.

**Amendments to the Consumer Affairs Act**

Despite the fact that the judgement delivered by the Constitutional Court in Federation of Estate Agents v Direttur Generali (Kompetizzjoni) u L-Onorevoli Prim Ministru u L-Avukat Generali referred solely to the administrative proceedings instituted by the Director General (Competition) in terms of the Competition Act, it was considered that the decision of the Court was similarly relevant to the administrative proceedings instituted by the Director General (Consumer Affairs) in terms of the Consumer Affairs Act. In this regard, amendments are being proposed to delete any reference to the ‘Appeals Tribunal’ in favour of the newly established review procedure before the Civil Court (Commercial Section). This necessitated amendments to the Consumer Affairs Act and to the Subsidiary Legislation made thereunder. Other related amendments are also being proposed. These include:

• Granting the power to the Director General to extend the operative period of an undertaking (‘commitment’) to a period longer than the present 3 year period - This ensures that the terms and conditions of the undertaking entered into between a trader and the Office can be made to remain effective for a period longer than 3 years.

• Granting the Director General (Consumer Affairs) the power to publish his decision. This contributes to the principle that ‘not only must Justice be done; it must also be seen to be done.’ This is in line with similar administrative measures issued by other regulators under their respective legislation.

**NIGERIA**

**Report by Dr. Henry C. Uzokwe**

**Recent Reforms to Improve Consumer Protection and Competition Law in Nigeria**

Thereare currently new reforms in placeto improve the Nigeria competition and consumer protection landscape. In February 2019, President Muhammadu Buhari signed into law the Nigerian Federal Competition and Consumer Protection Act, 2018 to deal with the perceived loss of public confidence in the market competition. The new Act will not only introduce an extensive competition law regime in Nigeria, but, it will also the repeal the Consumer Protection Act, Cap C25, 1992 (the Consumer Protection Act). The Act mirrors the efforts over the years to have substantive law for the promotion of competition and protection of consumers in Nigeria. The Act has 168 sections divided into 18 parts which applies to all markets and commercial activities within Nigeria.

* One important aspect of the new Federal Competition and Consumer Protection Act (FCCPA) is that it retains the statutory role of ‘merger review’ which was part of the Securities and Exchange Commission (SEC) mandate prior to signing the FCCPA.

**Highlights of the New Act**

* The Act repeals the Consumer Protection Act Cap. C25, Law of the Federation of Nigeria 2004.
* The establishes the Federal Competition and Consumer Protection Commission to advise the Federal Government, carry out administrative duties, promote, protect and enforce consumer interests.
* The Act also establishes the Competition and Consumer Protection Tribunal with the powers to impose penalties for the promotion of competition in the Nigeria markets at all levels.
* The Act empowers the Federal Government (the president) to appoint, remove and prescribe conditions of service for both members of the Commission and the Tribunal.

The Act is applicable to all commercial activities within or having effect within Nigeria and contains provisions dealing with abuse of dominance, merger control, monopiles, consumer protection and price regulation. The new Act has provided a platform whereby consumers can file their complaints directly with the commission or other industry sector regulator with jurisdiction. These complaints will be heard by the Commission and the can prescribe action against erring firm which might result to compensation to be awarded to the consumer.

**TURKEY**

**Report by Dr. Orhan Emre Konuralp**

Bilkent University Faculty of Law Research Assistant

**Turkish Court of Cassation Decided that Attorney Contracts Are Defined as Consumer Transaction under Certain Circumstances**

13th Chamber of the Turkish Court of Cassation decided that contract between client and attorney is consumer contract, if the dispute, for which the mandate is given, is a consumer dispute. As a result of this decision, from now on attorneys are identified as service providers and clients are identified as consumers for this kind of disputes. Therefore, disputes arising from attorney contracts need to be solved as consumer disputes.

Under Turkish law, main legal ground for consumer law is Consumer Protection Act (Nr. 6502). According to 3rd article of the Act, supplier is described as: “a real person or legal entities including the public legal entities offering services or acting on behalf or on account of those offering services to the consumer for commercial or professional purposes.” According to same article, consumer is described as: “a real person or legal entity acting for non-commercial or non-professional purposes.” Additionally, the Act describes consumer transaction as: “all kinds of contracts and legal procedures including the contract of work, transport, brokerage, insurance, mandate, banking and similar contracts established between consumers and real persons or legal entities, including the public legal entities, acting for commercial or professional purposes or on behalf or on account of such, in the goods and service markets.” As it can be easily inferred, Turkish Consumer Protection Act has a very wide range of application.

These wide definitions lead some disagreements for determining of a contract as a consumer contract or not. One of these disagreements was about the contracts between clients and attorneys. To find a common legal solution for this problem, Regional Court of Appeal of Ankara applied to the Court of Cassation. The 35th article of the Law on Establishment, Duties and Jurisdiction of First Instance Courts and Regional Courts of Appeal (Nr. 5235) provides a legal ground to the Court of Cassation to render a verdict, even if there is not a concrete case, upon request of regional courts of appeal. After this application, 13th Chamber of the Court of Cassation decided that as long as the case that brought before a court is a consumer transaction, all disputes arising from the contract between client and attorney are consumer disputes[[1]](#footnote-1). In other words, if a consumer hires an attorney for a case that s/he involves in, this relationship between consumer and lawyer constitutes a new consumer transaction. On the contrary, if any of the parties of the main case is not a consumer, the relationship between disputed party and attorney could not be defined as a consumer transaction.

This decision has particularly important effect, after a dispute arises from the attorney contract because under Turkish law consumer disputes are subjected to a special dispute resolution system. If amount of dispute is higher than 8.480 TL (which equals to 1.500 US Dollars by August 2019), consumer courts have jurisdiction over this dispute. However, if the amount does not exceed this specified limit, consumer arbitral tribunals have jurisdiction.

**US**

**Report by Professor Jason Kilborn**

UIC John Marshall Law School

First, the state of Illinois (where Chicago is) just last week adopted an interesting new consumer debtor protection law that makes two limited but unique changes to state law:  1) the statutory interest rate accruing on "consumer debt judgments" under $25,000 is now subject to an exception from the normal 9% rate--for debts "primarily for personal, family, or household purposes," the post-judgment interest rate is reduced to 5%, and 2) the lifetime of a consumer debt judgment is limited to 17 years, rather than the usual 27 years.  Both of these changes are very small and will likely have little salutary effect (neither the consumer credit industry nor the collections industry put up any fuss at all during the bill's consideration), but it's notable whenever the little people score a small victory in the US.

Second, to clarify the kinds of issues just mentioned (the lifetime of judgments, post-judgment interest, etc.) and the panoply of issues arising in the money judgment enforcement (and defense) process, I've just published a little book, *Eyes on the Prize:  Procedures and Strategies for Collecting Money Judgments and Shielding Assets* (2019), Carolina Academic Press, ISBN 978-1-5310-1606-7 (<https://cap-press.com/books/isbn/9781531016067/Eyes-on-the-Prize>).  It maybe that judgment enforcement/defense is covered in non-US law schools, but it generally is not covered in the US, and I aimed to change that--and to offer a lay person a nice, detailed overview of the entire process of finding and seizing value (or protecting that value) of judgment debtors.  For non-US readers, it offers a glimpse of how different the 50 states' laws can be, as well as useful orientation within the complex post-judgment process in the US, from asset discovery through bankruptcy.

1. **NEW BOOKS / ARTICLES TO BE AWARE OF …**

**Paolo** Siciliani, **Christine** Riefa, **Harriet** Gamper, **“Consumer Theories of Harm: An Economic Approach to Consumer Law Enforcement and Policy Making”** Hart Publishing, 2019. It has long been thought that fairness in European Consumer Law would be achieved by relying on information as a remedy and expecting the average consumer to keep businesses in check by voting with their feet. This monograph argues that the way consumer law operates today promises a lot but does not deliver enough. It struggles to avoid harm being caused to consumers and it struggles to repair the harm after the event. To achieve fairness, solutions need to be found elsewhere. *Consumer Theories of Harm* offers an alternative model to assess where and how consumer detriment may occur and solutions to prevent it. It shows that a more confident use of economic theory will allow practitioners to demonstrate how a poor standard of professional diligence lies at the heart of consumer harm. The book provides both theoretical and practical examples of how to combine existing law with economic theory to improve case outcomes. The book shows how public enforcers can move beyond the dominant transparency paradigm to an approach where firms have a positive duty to treat consumers fairly and shape their commercial offers in a way that prevents consumers from making mistakes. Over time, this 'fairness-by-design' approach will emerge as the only acceptable way to compete. <https://www.bloomsburyprofessional.com/uk/consumer-theories-of-harm-9781509916863/>

**Hans-W**. Micklitz/E. Hondius/Th. Van Mierlo/Th. Roethe (eds.) “**The Mothers and Fathers of Consumer Law and Policy in Europe, The foundational Years 1950-1980,”** European University Institute, Cadmus 2019. The book owes its origin to the sudden passing away of my mentor and friend Norbert Reich in 2015, the father of the consumer law in Germany. My Dutch colleagues and friends, Ewoud Hondius and Thom van Mierlo pushed me into action. Thanks of the ERC funds I was able to sponsor a conference held in June 2017 on the father and mothers of consumer law in Europe. The idea was to bring together all those who significantly contributed to the development of consumer law in their home countries and in the EU. Nearly everybody we invited made it to our getting together. A round table of observers concluded the conference. The papers and documents should be made available to the public at large. That is why we have opted for an e-book version. The invitees were given rather loose instructions in the form of four open worded questions (see III. Letter of Invitation), the emphasis was laid on free speech, memories and crucial events. In order to keep the particular style of the conference in place, we decided to record the speeches and to transcribe them together with the discussions. Both are publicly accessible the original speeches and the transcripts. <http://hdl.handle.net/1814/63766>

**Jason** J. Kilborn, **“Eyes on the Prize: Procedures and Strategies for Collecting Money Judgments and Shielding Assets”**, The first of its kind in several decades, this concise handbook provides a much-needed modern roadmap to the civil procedure that few talk about and many do not know exists. It charts the metamorphosis by which the caterpillar of a money judgment is transformed into the butterfly of ... money. For law students, new practitioners, and interested lay readers, it offers a guidebook survey of the mechanics and strategies for every step of the process of collection—or defending against collection—of a money judgment, including domestication of judgments, debtor and third-party discovery, asset seizure and turnover, property liens and priority battles, homestead and personal property exemptions and asset protection, fraudulent conveyance recovery, and bankruptcy.

*Eyes on the Prize* offers a detailed analysis of common, modern asset classes—bank accounts, wages, business investments and securities, and intellectual property—and governing federal and state law in three representative states: New York (traditional), California (innovative), and Illinois (aggressively modernized), with comments on selected highlights in other states (Texas, Florida, Pennsylvania, and others). An accessible, hands-on resource for reviving the study of post-judgment collections and defense law in the 21st century, the book concludes with hypothetical practice exercises and carefully edited statutory appendices to supplement basic courses in Civil Procedure, Remedies, Bankruptcy, Secured Finance, and other areas of the law. <https://cap-press.com/books/isbn/9781531016067/Eyes-on-the-Prize>

Dr. **Camilo** Alfonso Escobar Mora, “**Legal validity in the theory of preventive consumer law in digital advertising.**”The theory of preventive consumer law in digital advertising (created by the author of this article) made (included: created) clarity about juridical (including: legal) validity. Both at a general level and at a particular level for digital advertising that the (commercial) company communicates to the consumer. That is to say: it clarified the juridical validity of digital advertising in the consumer relationship (the consumer relationship is the juridical relationship that is formed when one of its parties is an enterprise —mercantile. Commercial— and the other is a consumer). In theory: validity (juridical validity) is the form of law. The form of the law is validity. It is the way in which (the law) is specified in the case. According to the case, in the case and to the extent of the case (tailored to the case). For that reason: the valid case is the form of the law (to the extent of the case —tailored to the case—). <https://juridia.co/legal-validity-in-the-theory-of-preventive-consumer-law-in-digital-advertising/;>

1. **CONFERENCES – CALL FOR PAPERS**

**Call for Abstracts: Teaching Consumer Law Conference**

May 29-30, 2020

The Center for Consumer Law at the University of Houston Law Center, in cooperation with the University of New Mexico School of Law, is organizing its twelfth biennial international teaching consumer law conference. The subject is “Teaching Consumer Law: Back to basics?” The Conference will be held at the [**Hilton Hotel**](http://www3.hilton.com/en/hotels/new-mexico/hilton-santa-fe-historic-plaza-SFEHIHF/index.html) in Santa Fe, New Mexico, the “[**City Different,”**](https://santafe.org/) one of the oldest and most interesting cities in the United States.

The Conference will focus on traditional issues of consumer law. It is directed primarily toward those currently teaching or interested in teaching consumer law at the law school or college level—full-time or as an adjunct. A discussion of a few of our prior Conferences may be found at:  
[**http://www.jtexconsumerlaw.com/V14N2/V14N2\_Teaching.pdf**](http://www.jtexconsumerlaw.com/V14N2/V14N2_Teaching.pdf)  
[**http://www.jtexconsumerlaw.com/V18N2/V18N2\_Teaching.pdf**](http://www.jtexconsumerlaw.com/V18N2/V18N2_Teaching.pdf)  
[**http://www.jtexconsumerlaw.com/V20N2/V20N2\_Teaching17.pdf**](http://www.jtexconsumerlaw.com/V20N2/V20N2_Teaching17.pdf)

The 2020 conference will deal with themes such as:

* How do we define consumer law?
* How can we teach the multitude of subjects encompassed within the term “consumer law”? What should we emphasize? What should we delete?
* What innovations can or should we bring to the consumer law classroom?
* Do we need more consumer regulation, or less?
* What is the impact in the US of the Consumer Financial Protection Bureau (CFPB), and how do you teach about the CFPB, particularly in light of the current dismantling of the agency?
* Are there innovative ways to resolve consumer problems, other than the typical court and alternative dispute resolution systems?
* How do we deal with intra-state and intra-national consumer transactions?
* Is online dispute resolution good or bad?
* International consumer law developments and innovations.
* Recent developments in substantive US consumer law.
* The view from the trenches—what do practicing attorneys see as the current consumer law issues.

Papers and presentations, which do not require a formal paper, are invited on any of the above themes, or any other topic related to the teaching of consumer law. Proposed topics may discuss the law of any jurisdiction; however, the emphasis is on topics of interest to law school professors and those with an interest in entering academia.

Those who wish to submit a paper or presentation topic are invited to forward a proposal including a brief abstract of no longer than 400 words, and contact information for the author. The proposals should be sent to Professor Richard M. Alderman at [**alderman@uh.edu**](mailto:alderman@uh.edu). Proposals for papers or presentations should be submitted no later than 31 January 2020. Authors will be promptly notified of acceptance. Final drafts of the papers that are to be included in the Conference materials are to be forwarded not later than the 15th of May 2020.

The language of the conference is English. Conference registration fees will be waived for all presenters. Selected papers will be published in the Journal of Consumer and Commercial Law, [**http://www.jtexconsumerlaw.com**](http://www.jtexconsumerlaw.com/).

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1. 13th Chamber Reg. No. 2018/3545 Decision No. 2018/7887 Date: 12/07/2018 [↑](#footnote-ref-1)