

ABSTRACT

CLOUD COMPUTING AND COMPLIANCE WITH KEY CONSUMER PROTECTION LAWS IN SRI LANKA: A COMPARATIVE ANALYSIS WITH THE UNITED KINGDOM AND EUROPEAN UNION

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The rapid development of digital transformation and the emerging requirement for remote access to stored documents, usage of applications, usage of web mail and other cloud services call for the requirement of an effective consumer protection law for the protection of users. The cloud computing user will, just like a consumer of any other good or service be concerned of the implied conditions guaranteed under the legislation to ensure the reliability of the service, and the fairness and transparency of the terms and conditions of the CSP's standard contract. Currently there are violations of the implied terms by the CSP's and also its found that almost all the CSP's have standard contracts making the consumer vulnerable. Therefore, the consumer protection laws and the laws on unfair contract terms needs to be structured in a manner to address these issues faced by the cloud computing user. This study analyses the current statues on consumer protection legal framework in Sri Lanka such as the Consumer Affairs Authority Act, No. 09 of 2003 and Unfair Contract Terms Act, No. 26 of 1997 and to see its compliance to the protection of cloud computing consumers in Sri Lanka. This study finds that the implied terms on consumer protection, law against unfair contract terms needs to be improved considering the lack of interpretations given, lack of clarity in rights specific to digital content such as cloud computing and the lack of a strong test in considering a term of contract as unfair. The solution to this is achieved through the recommendations brought in line with the two jurisdictions namely UK and EU. The methodology followed to conduct this study is by

way of qualitative methodology to carry out the comparative analysis. .. The innovative interpretations given to “Digital Content” in the United Kingdom legislative framework via Consumer Rights Act 2015 and the digital content centric statutory obligations attached to it together with a new framework to govern unfair contract terms helps to suggest a more structured consumer protection law for Sri Lanka as well. Similarly, the European Union Directives such the Directive 2019/770 on Digital content, Directive 2019/2161 bringing amendments to the consumer rights Directive and Unfair contract terms Directive have identified “digital content” and “digital services” to give necessary consumer protection to the consumers of technologies such as cloud computing identifying statutory rights of the consumers of such technologies. Therefore, this study which is a comparative analysis of the Sri Lankan Legal framework with the United Kingdom and European Union Directives will contribute to the knowledge base in the consumer protection academia. The main beneficiaries of this study will be the increasing number of cloud computing users on a day today basis. The necessary policy changes will encourage technology usage, foreign investments proving Sri Lanka’s adaptability to the ever-evolving technologies and improved policy framework for consumer protection.

Key words: Cloud computing, consumer protection, consumer rights, unfair contract terms