

## **The Role of Regulator and NGOs in Developing Credit Community and Consumer Sovereignty in Malaysia**

**Daljit Kaur Sandhu\*, Afida Mastura Muhammad Arif, Elistina Abu Bakar and Husniyah Abd. Rahim**

*Department of Resource Management and Consumer Studies, Faculty of Human Ecology, Universiti Putra Malaysia, 43400 Serdang, Selangor, Malaysia*

### **ABSTRACT**

The purpose of regulating the Credit Community industry is to standardise moneylenders' business compliance so that consumers may freely choose where to pursue their moneylending transactions. Media reported an increasing trend on breaching of consumers' sovereignty by the moneylenders in Malaysia. Thus, the primary role of regulation effectiveness comes into the limelight. It raises the question of whether regulation enhancement supports or deter consumers' sovereignty. The study was undertaken in Selangor and Kuala Lumpur, where most of the consumers' issues were handled by non-governmental organisations (NGOs). The phenomenology approach was used to extract the three NGO leaders' experiences and four regulator officers' when dealing with the consumers and the licensed moneylenders' issues. Data from semi-structured interviews and moneylending literature were uploaded into Nvivo 12 for thematic analysis. Findings revealed three themes: the non-governmental organisations' role as the "watchdog", the regulator's educational role, and the regulator's role in uplifting consumers' sovereignty. The findings reveal a tendency for consumers with moneylending issues to seek NGOs, which affect the effort of seeking redress. The

implication is for the regulator to take the lead in strengthening a three-way working relationship involving the moneylenders' associations and the NGOs to resolve consumers sovereignty issues.

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##### *E-mail addresses:*

[gs46591@student.upm.edu.my](mailto:gs46591@student.upm.edu.my) (Daljit Kaur Sandhu)

[afidamastura@upm.edu.my](mailto:afidamastura@upm.edu.my) (Afida Mastura Muhammad Arif)

[elistina@upm.edu.my](mailto:elistina@upm.edu.my) (Elistina Abu Bakar)

[husniyah@upm.edu.my](mailto:husniyah@upm.edu.my) (Husniyah Abd. Rahim)

\* Corresponding author

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## INTRODUCTION

Notably, moneylending is an expanding industry that meets the credit needs of many Malaysian consumers (Teo, 2016). The main purpose of regulation and licensing of the moneylenders is to protect the interest of the general public against incompetent lenders and provide safety to consumers (Arif, 2006). Nonetheless, critics have expressed that the present regulation of the moneylending industry is detrimental to consumers sovereignty (Adelene, 2013; Markom et al., 2015). Historically, moneylenders in Malaysia were monitored by the respective local council authorities, who each practised their system of enforcement, resulting in administrative issues (Arif & Parry, 2008). When realising the discrepancy and weakness, a centralised regulation approach was undertaken to govern moneylending activities through the main statute, which is the Moneylenders Act (1951) or MLA (Arif & Parry, 2008). In the MLA's preamble, the purpose is clearly stated that it is "An act for the regulation and control of the business of moneylending, the protection of the borrowers of the monies lent in the course of such business and matters connected therewith."

Furthermore, the regulator's good intention of reforming the MLA provisions in 2003 was focused on tightening the moneylenders' compliance and enhancing protection to the consumers. Likewise, according to Arif and Parry (2008), the imposition of statutory rights and duty to moneylenders and borrowers was meant to

elevate the awareness of both contracting parties. However, the improvement in the law in 2003 is counterproductive, especially in essential matters concerning the pre, during and post moneylending contract implementation. Unfortunately, at present many consumers continue to make wrong choices and depend on the information given by the moneylenders when agreeing to the content of the moneylending contract (Guan, 2003). As highlighted by Lee et al. (2017), for consumers to process information accurately and make the right decisions, the document's readability aspect is critical. Thus, it is proposed that for future MLA reform, changes on the Schedules accompanying the moneylending contract are legible for consumers. Apart from that, the name "moneylending" carries a negative connotation among the public, which led the regulator to re-brand the industry name into Credit Community in April 2019 (The Sun Daily, 2019). The main issue embroiled in the licensed moneylending industry is who among the stakeholders shoulders the responsibility of consumer sovereignty. This issue expands to the two sub-issues, which are paucity in the regulator's role in ensuring consumers' protection and the numerous NGOs overlapping roles that do little to protect the consumers. Thus, this study aims to gain deeper insights on the effectiveness of moneylending regulation with the scope of discussion leaning on the perspectives of the two stakeholders: the regulator and the NGOs.

### Consumer Sovereignty

According to Tadajewski (2018), the concept of consumer sovereignty itself is varied. In 1936, the concept of consumer sovereignty was popularised by William Harold Hutt, who stated that “the consumer is sovereign when, in his role of citizen, he has not delegated to a political institution for authoritarian use the power which he can exercise socially through his power to demand or refrain from demanding” (Desmarais-Tremblay, 2020; Hutt, 1936). There is also the dual concept of consumer sovereignty which are “descriptive observation” or “freedom to exercise choice” and “normative standard” or “outcomes of choice” (Cvjetanovic, 2013; Duggan, 1991). Meaning, the economic environment enables the consumers to choose and influence the products or services offered by the businesses freely. Averitt and Lande (1996), on the other hand, proposed a unified theory of consumer sovereignty in ensuring a fair and competitive marketplace with adequate options available for consumers. This view was taken from the legal perspective, that two distinctive elements best portray consumer sovereignty: antitrust and consumer protection (Averitt & Lande, 1996). Instead of being passive, consumers should actively participate in the regulatory practice that will benefit them (Ramsay, 2006; Williams, 2007). Cvjetanovic (2013) research on consumer sovereignty in the Australian payday industry credit reforms found that borrowers limited ability to make rational choices demand policy intervention to protect the consumers better. This study

is in line with the local context, where the NGO role is critical in supporting the regulator in creating moneylending education platforms for consumers to share their views. Another rationale for consumers engagement with the NGOs is to provide them with a channel for giving feedback and empowering consumers. One concern is that there is no mechanism to ensure that new regulatory information compliances are timely and accurately disseminated among their officers for the benefit of the consumers.

Despite advocating the importance of consumers’ sovereignty at the policy level, there is a paucity of practical methods to monitor and ensure moneylending compliance. It has raised the question of whether the increase in licenses given to new moneylenders is causing more harm to consumers. Is the moneylending regulation not reaching its full potential due to a lack of adherence among moneylenders? These works of literature have deliberated on the concept of “consumer sovereignty,” but very few extend the same idea towards consumers’ choice, specifically in regulated moneylending. The gap led towards this paper’s query whether regulation support or deter sovereignty within the Credit Community in the Klang Valley, Malaysia. Malaysian consumers require a major shift from accepting second best in the licensed moneylending services offered. In addition to allowing consumers to have a position to choose without predatory lending elements, the purpose of regulation is to protect consumers and provide safe access to credit (Markom et al., 2015).

Interestingly, moneylending in Malaysia is highly regulated, but the persisting issues faced by consumers are unfair preparation of contracts (Zolkepli, 2020), incur excessive interest rates (Bernama, 2019) and overpayment of loans (Kamaruddin, 2016). One possibility is that the consumers are not vocally strong enough to exercise their power collectively to treat the moneylenders fairly. This situation is contributed by the common perception among Malaysian consumers that they have no choice but to accept the terms of a transaction (Yusoff et al., 2012). A consumer protection policy with the best outcome for the consumer in mind was brought forward by Izaguirre (2020). Similarly, Lefevre and Chapman (2017) disclosed that reasonable financial consumer choices are not a matter for debate but should be understood and made commonly known to stakeholders. Regulators, together with the policymakers, need to integrate behavioural apprehension in their new policies as it was found to have a positive effect on the financial consumers' protection outcome (Lefevre & Chapman, 2017).

Lefevre and Chapman (2017) also highlighted a good example by the Netherlands regulator that concluded by just imposing financial disclosure to the financial service providers it was insufficient to assist consumers in making their financial choices when faced with pressure and time limitations (The Netherlands Authority for Consumers and Markets, 2013). By gaining new insights on the consumers' bad assessments of some financial products

that give smaller returns in the long term, measures were taken to stop such savings products from being offered to the consumers (The Netherlands Authority for Consumers and Markets, 2013). In the same way, consumers who engage with licensed moneylenders have restricted time and are pressured, which defies their right to make the best choice. This study probes the contributing factors from the NGOs and regulator that does not support the consumers' sovereignty.

### **Consumer Watchdog**

The NGOs in Malaysia mainly alert any unfair business practices, provide suggestions for consumer rights improvements and assist in consumers issues (Hashim, 2002). In the context of this paper, consumer watchdog is an abbreviation that denotes the NGO's role of monitoring the moneylending industry towards achieving good governance practices. Besides leading the rights of consumers, the NGOs function is to observe the government and public establishments quality of services towards the people (Omar & Ismail, 2019). Under the MLA, the regulator is empowered to monitor and control the licensed moneylenders. Likewise, any complaints from the consumers of licensed moneylenders are to be dealt with solely by the regulator. It means, the NGOs important position is to educate and re-direct the consumers to seek assistance from the regulator's officers. Norkus (2003) illustrated that in ensuring that consumer sovereignty is achieved, the principle that "consumer is always right" and the criterion

that “consumer is the king” must be upheld. Whenever there is a dispute, the interest of the consumer overrides the interests of the service provider (Norkus, 2003). To apply what Norkus (2003) proclaimed, whenever there are any issues between the consumers and licensed moneylenders, the NGO role is the proponent of consumers rights. In the event consumers are dissatisfied with the services given by the regulator’s officers, they need to be informed that they may voice it out to the NGOs, who in return need to communicate a red flag to the regulator for service improvement.

### **The Role of the Regulator**

Consumers on their own cannot elevate themselves to be sovereign; instead, they depend primarily on the regulator to ensure a safe and fair business transaction environment. Arner and Furchtgott-Roth (2020) stated that “governments should be defenders of consumer sovereignty” even though the principle of “willing buyer” and “willing seller” may limit their role. The regulator can intervene by creating rules involving business transactions when buyers or sellers are at risk and when third parties’ interests are harmed (Arner & Furchtgott-Roth, 2020). Tadajewski (2018) criticised how businesses and marketers behave differently with the customers and the regulator where consumer sovereignty is concerned. Through subtle influence, the businesses and marketers influence the consumers to demand through persuasive advertising, limiting freedom of choice.

Nevertheless, when facing the regulator,

the businesses claim to advocate consumer sovereignty (Tadajewski, 2018). Therefore, the role of the regulator is to ensure that the businesses “value the individual’s choice” (Tadajewski, 2018). Meanwhile, Williams (2007) suggested that to avoid conflict with the development of consumer sovereignty, more specific studies should be conducted by the regulator on consumers understanding of financial risks and responsible borrowing. Concerning the present study, there are four roles of the regulator: (1) protect the consumers by monitoring the moneylenders are complying with the law; (2) ensure updated moneylending information is disseminated to the consumers, moneylenders and NGOs; (3) provide sufficient social media and traditional media channels for consumers to put in their moneylending related complaints with an acceptable resolution timeline; and (4) actively seek feedback from the consumers, licensed moneylenders and NGOs on the effectiveness of the moneylending business practices.

### **MATERIALS AND METHOD**

There is little qualitative data analysis on the regulatory and NGOs perspectives in the local moneylending industry. On this basis, the research approach taken is via phenomenology founded by Heidegger (1927), which is best for analysing the different perspectives of the two stakeholders on moneylending regulation towards consumers’ sovereignty. A similar multi-perspective phenomenological study has been employed in health care research

(Nyanchoka et al., 2019), but few could be found in consumer studies. Guided by Daher et al. (2017), the phenomenology approach was used to extract the three NGO leaders' experiences and four regulator officers' when dealing with the consumers as well as the licensed moneylenders' issues. The study encompassed primary and secondary data where the pilot data collection began in the last quarter of 2018. The actual data collection took a year to complete in 2019, and the background information of the stakeholders was updated as of 2021. The interviews were conducted in dual languages of Malay and English as some participants expressed themselves better in a combination of both. Interviews with NGO 1 and NGO 3 took more than one and a half hours as audio recording consent was not given, but the researcher was allowed to write their responses.

In contrast, NGO 2 interview audio recording consent was given and completed in less than forty-five minutes. The audio-recorded interviews with the regulatory officers were done simultaneously and were completed within four hours. In order to enhance the study's credibility, triangulation of method using semi-structured interviews, information from social media and content analysis was conducted. The three NGOs selected were those who have experience dealing with licensed moneylending complaints and were willing to participate in this study. This requirement resulted in the study location involving Selangor and Kuala Lumpur, which also met the location triangulation criteria.

According to Creswell and Poth (2018), the stakeholders are a group, or a person impacted by the aim of the organisation either indirectly or directly. The multi-stakeholders selected is to understand their collective perspectives of the phenomena (Casey et al., 2017), which is the role of regulation in consumers' sovereignty. Purposive sampling was adopted for the participants' selection which was guided according to Creswell and Poth (2018). In order to adhere to the context of this study, the NGOs and regulator's participants ability to fulfil the research objective was taken into consideration. Therefore, the multi-stakeholders sampling strategy led to three NGO leaders as well as four officers from the regulator. In order to protect the interviewees' and the stakeholders' identities, a pseudonym was utilised. Table 1 presents the background of the three NGOs.

For instance, NGO 1, is the third establishment that have handled consumers complaints in Kuala Lumpur, while NGO 2 is the first establishment that has been reaching out to consumers throughout the country. Unlike NGO 1 and NGO 2, NGO 3 provides systematic yearly reporting on nationwide consumers moneylending issues. In Table 2, the officers from different sections have worked together in the regulatory division overseeing licensed moneylenders in the country.

The dependability of the study was enhanced with the use of separate interview guides for the two stakeholders. The first part of the interview guide for the NGOs consisted of questions on their background and information on how they operate

Table 1  
*Non-governmental organisations background*

| <b>Non-governmental organisation (Pseudonym)</b> | <b>Years established (as of 2021)</b> | <b>Consumers coverage</b> | <b>Consumer complaint handling method</b>   |
|--|---------------------------------------|---------------------------|---|
| NGO 1  | Third                                 | Klang Valley              | Membership fees requirement.<br>Provide legal services.<br>Act on behalf of the complainant.  |
| NGO 2  | First                                 | Nationwide                | Membership fees requirement.<br>Percentage of the recovered loan.<br>Prepares and forward the complaint to the regulator.<br>Provide legal services.<br>Act on behalf of the complainant. |
| NGO 3  | Second                                | Nationwide                | Free of charge.<br>Assist the complainant by forwarding complaints to the regulator.<br>Prepares yearly reporting.  |

Table 2  
*Regulator's officers' background*

| <b>Regulator's officers (Pseudonym)</b> | <b>Responsibility in the moneylending industry</b> |
|---|--|
| Officer 1                               | Section 1  |
| Officer 2                               | Section 2  |
| Officer 3                               | Section 3  |
| Officer 4                               | Section 4  |

on moneylending issues. Meanwhile, the second part of the interview guide consisted of probing questions dealing with consumers, licensed moneylenders, and regulators. Likewise, for the regulator, the first part of the questioning was on their work background revolving around the moneylending industry. Whilst the second part consisted of three sections with detailed questions concerning their role in monitoring and enforcing the MLA involving the consumers as well as the licensed moneylenders. Also, the practice of constant comparison allowed the refinements of the interview guides during the progression of interviews from one participant to the other.

Guided by Saldana (2015), the reliability of the study was ensured by transcribing verbatim, reading and re-reading individual transcripts repeatedly throughout the coding process. The coding, categorisation and thematic analysis were conducted using Nvivo 12 with the input of peer-reviews which increased the findings' reliability, as shown in Table 3.

## RESULTS

The stakeholders' perspectives led to three themes: the non-governmental organisations' role as the "watchdog", the regulator's educational role and the regulator's role in uplifting consumers' sovereignty.

Table 3  
*Thematic analysis*

| Themes  | Sub-themes   |
|---|--|
| 1. Non-governmental organisation role as the “watchdog” | 1. Compilation of consumers’ complaints<br>2. Non-governmental organisations act as the mediator<br>3. The informants' role to the regulator |
| 2. Regulator’s educational role                         | 1. Provide timely moneylending information to stakeholders<br>2. Targeted moneylending education to consumers                                |
| 3. Regulator’s role in consumers’ sovereignty           | 1. Monitor licensed moneylenders<br>2. Enforce compliance with the moneylenders’ law<br>3. Improve existing regulation                       |

### **Theme 1: Non-governmental Organisations’ Role as the “Watchdog”**

The first theme is derived from the three NGO leaders’ perspective of their roles from three sub-themes which were (a) Compilation of consumers complaints, (b) Act as a mediator and (c) The informant role to the regulator.

**Sub-theme 1: Compilation of Consumers Complaints.** It was found from the interviews that one of the roles of the NGOs is to compile and provide the list of consumers complaints to the regulator for further action. For instance, NGO 1 requires a membership fee before accepting consumers complaints within Klang Valley. Meanwhile, besides charging a membership fee and preparing the documentary evidence on behalf of the complainants, NGO 2 also provide legal services and accepts nationwide complaints but requires a percentage of the recovered loan from the consumers. Whilst, NGO 3 act as a nationwide moneylending complaint forwarding channel to the regulator, which provides free complaint

facilities to consumers via website, phone-in, and walk-in handling centres. Among the three NGOs, the highest complaints from consumers are received by NGO 2 as they have a strong social media presence.

### **Sub-theme 2: Non-governmental Organisations Act as the Mediator.**

The findings reveal that the NGOs, in many cases, act as the mediator in the situation of disputes brought to them between consumers and licensed moneylenders. In the opinion of NGO 2, there are two instances. First, in rare cases, the licensed moneylenders are honest, but the consumers try to escape from repaying their loans. He further elaborated: “We also try to work with some of the licensed moneylenders, because they also got a problem with non-repayment”. Second, the consumers are naïve and ignorant when dealing with licensed moneylenders. Thus, to protect the best interest of consumers, they volunteer to be the mediator. Otherwise, the consumers would be cheated further by the licensed moneylenders as NGO 2 have come across



serious cases where the consumers only remember having signed the documents without understanding its contents.

**Sub-theme 3: The Informant Role to the Regulator.** NGO 3 mentioned that their organisation publishes yearly consumer complaints and resolution reports which is a means to inform the regulator of any shortcomings in the moneylending industry. Likewise, both NGO 1 and NGO 2 stated they have restricted working relationships with the regulator and were compelled to raid on errant licensed moneylenders with the police in the past. As NGO 1 expressed: “We have no choice but report to the police and join in the raids. At least got some publicity.” NGO 2 highlighted that licensed moneylender has become smarter in covering up their mischievous practices. For example, he revealed: “You know to avoid detection of a higher cost of borrowing, these licensed moneylenders encourage the consumers’ to select the longest repayment duration. The consumers are happily thinking they are only paying a minimum monthly repayment amount, but they do not realise they are paying more”. NGO 1 articulated that some consumers were enticed to take up additional loans and, in some cases, the spouses were put in as guarantors without their knowledge. As a result, the consumers end up repaying for a longer duration and much more than the initial loan amount. Such cases are compiled and shared with the regulator for court submission, but no action is often taken due to insufficient evidence.

## **Theme 2: Regulator’s Educational Role**

The second theme is ascertained from the four regulatory officers’ perspective from two sub-themes which were (a) Provide timely moneylending information to stakeholders and (b) Targeted moneylending education to consumers.

### **Sub-theme 1: Provide Timely Moneylending Information to Stakeholders.**

Officer 1 point of view is that instead of overly depending on the regulator, Malaysian consumers and lenders must be held responsible. He narrated: “Consumers must know their rights before going into any transactions with the licensed moneylenders and vice versa.” However, based on the study’s findings, according to the NGOs interviewed, consumers still require more awareness and educational programs from the regulator on the moneylending industry. For example, fundamental information such as the name change to the Credit Community may confuse consumers that it refers to new legalised credit providers. Even the Malaysian National Consumer Policy strategy supports the effort on increasing the type and quality of information available to consumers (Afida et al., 2014). Likewise, accurate and timely information from the Malaysian regulator to the NGOs will ensure every stakeholder is on the same understanding of their respective roles (Lahsasna, 2018).

### **Sub-theme 2: Targeted Moneylending Education to Consumers.**

Another officer 2 mentioned that consumers are given targeted

moneylending education through social media and traditional media. He elaborated that, at times, the issue is the interpretation of the law and the information to disseminate to the public. He gave an example of a grey area: "The weakness of the law is that no explanation provided on what is accepted as collaterals." This lack of clarification may lead consumers to unknowingly agree with the unfair conditions set by the lenders, which defeat the purpose of the regulator's educational programs. Also, the actual behaviour of consumers when handling the moneylending process is not within reach of the officers. It means that in cases where consumers put themselves at the mercy of licensed moneylenders, the officers cannot pre-warn them.

### **Theme 3: Regulator's Role in Uplifting Consumers' Sovereignty**

The third theme is derived from the four regulatory officers' perspectives from three sub-themes, which are (a) Monitor licensed moneylenders, (b) Enforce compliance with the moneylenders' law, and (c) Improve existing regulation.

**Sub-theme 1: Monitor Licensed Moneylenders.** With regards to the licensed moneylenders monitoring role, as stated by officer 3 and officer 4: "We usually randomly examine the licensed moneylenders' transaction reports sent to us every year. Also, the current monitoring practice is when there are official complaints from the NGOs, then we do physical checks of the moneylenders' offices." The

selective monitoring practice defeats the important duty of the regulator, which is to monitor the licensed moneylenders' compliance with the law. Meaning the present scope does not allow the regulator to interfere in the daily operations of the moneylender's business activity to provide better choices for consumers, which does little for consumer sovereignty. This finding matches with Marston and Shevellar's (2010) study on the unsporting conditions of Australia's payday regulation resulting in consumers lacking choices and accepting expensive credit.

### **Sub-theme 2: Enforce Compliance with the Moneylenders Law.**

One of the major issues faced by consumers, as maintained by officer 1, is not having a copy of the moneylending contract. However, when checked by his officers, the licensed moneylenders were able to furnish proof of the contracts. Some moneylenders even claim of having given a copy to their clients who, according to them, may have misplaced their copies. Officers 1, together with officer 3, went on to deliberate that the responsibility of obtaining the attested copy of the moneylending contract is on the consumers. The study also shed light on the selective compliance among some moneylenders mainly because of limitations in regulatory enforcement and intervention. For instance, the prohibition of consumers additional expenses other than what is approved by the MLA is not complied with by some moneylenders. The practice of inducing consumers to enter separate but

binding insurance premium payments also need to be monitored and made known as wrongful to the public by the regulator.

**Sub-theme 3: Improve Existing Regulation.** Officers 1, 2 and 3 highlighted that most consumers complaints do not reach them directly but through the NGOs. The officers feel that the present law on moneylending limits their ability to act upon NGOs complaints against moneylenders as the complainants cannot produce any tangible proof. Lauding the name change to the Credit Community, they propose a further enhancement to the law that allows the regulator's officers to demand from the moneylenders on full documentary evidence when there is a complaint from the consumers or the NGOs. Taking lessons from the situation in Uzbekistan's banking sector where excessive interventions hampered its growth, regulation is a delicate balance where the focus must be towards industry's development and gaining financial consumers' confidence (Ruziev & Midmore, 2014). Therefore, the regulator should assess the moneylending business developments and societal needs following the reality on the ground. It may be concluded that in future, the formulation of changes to the moneylending policy should include the input of consumers and moneylenders via a separate preliminary multi-stakeholder focus group discussion.

## DISCUSSIONS

In answering the study objective of whether regulation enhancement supports or deter

consumers' sovereignty, from the findings of the study, theme 1 indicates the NGOs have yet to expand their full potential in being the "eyes, ears and voice" of the Malaysian consumers. The law does not explicitly inform the role of NGOs in regulated moneylending. However, in the context of this study, the NGOs role as the "watchdog" represents their role as the advocacy group in instigating change for the betterment of consumers rights, which were highlighted by past scholars (Paswan & Chowdry, 2015; Wootliff & Deri, 2001). All three NGOs agree that consumers often lack the opportunity to choose licensed moneylenders due to credit rating constraints. Instead of promoting good preventive measures to minimise consumer dissatisfaction, based on the findings, two NGOs are seen to highlight the consumers' complaints via social media. Clearly, in the licensed moneylending context, consumers satisfaction and wants are not fully considered by the stakeholders. The findings contradict what Norkus (2003) emphasised that consumers are sovereign when the economic environment fulfils their satisfaction and adapt to their wants.

Meanwhile, in theme 2 the regulator's educational role constitutes the responsibility of disseminating accurate information on time to the consumers, licensed moneylenders, and NGOs. Furthermore, the regulator's role is to conduct specific money lending educational programs for the benefit of consumers. Unfortunately, theme 2 proves the regulator needs to gather more data on the consumers that are likely to

engage the moneylenders, their expectations and how best to reach out to them on any moneylending educational programmes.

Whereas theme 3, which is the regulator's role in uplifting consumers' sovereignty, means the acknowledgement of the importance of protecting consumers ability to choose that requires more regulatory interventions. Consumerism gave rise to excessive spending resulting in over indebtedness in personal finance (Amanda et al., 2018). Similarly, according to the NGO interviewed, most of the consumers in the licensed moneylending industry were financially weak but had a penchant for spending for consumption. The findings by Paswan and Chowdry (2015) showed that for consumerism to shift to market-based consumer protection besides consumers experiences, time, culture, environment, and support of NGOs, the main dependent factor is the government's intervention. The findings of the present study show that in the Malaysian context, there is a long hurdle to overcome before market-based consumer protection may be achieved. For example, the inadequacy of the present moneylenders' law in enabling the regulator officers to take action against the non-abiding moneylenders does not support the consumers.

The findings of this study led to the formation of the proposed stakeholders' shared goals towards consumer sovereignty in the licensed moneylending industry, as indicated in Figure 1. It shows the prominent role of accountability in a tripartite relationship among the consumers on self-protection, licensed moneylenders

on self-regulation, and regulator on consumer protection. The equal-sided triangle represents the stability angles of this relationship which are closely linked within the decisions made by each of the stakeholders. At the top of the triangle is the vital balancing role of the regulator between the consumers and licensed moneylenders. The bottom part of the triangle is reinforced with the role of the NGOs as the consumer "watchdog." If any stakeholder fails to fulfil their responsibility, it will influence the other party and vice versa. For example, in a situation where the regulator is providing inadequate consumer protection, it affects the quality of the relationship between the consumers and licensed moneylenders, resulting in more complaints handled by the NGOs. On the other hand, when the licensed moneylenders improve their self-regulation, it benefits the consumers with less burden of complaints to the NGOs and the regulator. With new confidence in the industry, consumers will be able to choose among the ethical licensed moneylenders. Thus, the moneylending industry cycle of non-compliance issues will be slowly eradicated, leading to a balanced licensed moneylending business environment supporting consumer sovereignty.

One significant change the regulator may undertake to strengthen the moneylending process is by including a cool-off period of one to two days. Other than knowing their rights to choose, more important is that consumers must be provided with the platform to make the best choice (Howcroft et al., 2003). This option would allow the consumers to decide after having gone

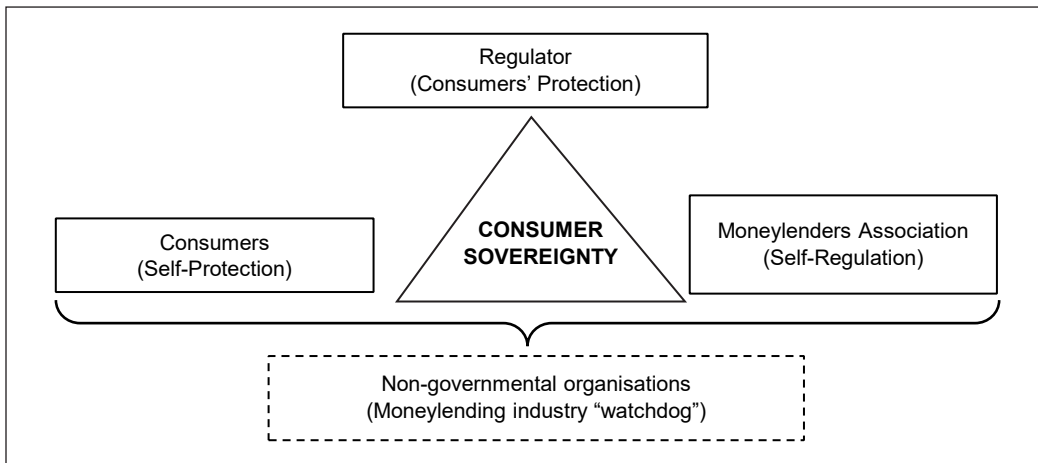


Figure 1. Proposed equal-sided tripartite relationship in licensed moneylending industry  
Source: Afida et al. (2014)

through the contract with the licensed moneylender whether to take up the personal loan or decline it. With the additional time to reconsider, the consumers have a superior say in taking up the contract and may even re-negotiate it with the moneylender. This view is also advocated by Kaufman (2013), who emphasised that roll-over prohibition and mandatory cool-off are essential to protect payday borrowers in making choices, which is the essence of sovereignty. In defending consumer sovereignty, Arner and Furchtgott-Roth (2020) pointed out that governments, through a thorough understanding of the impact, can limit or ban unfair consumer transactions even though made willingly by the buyers and sellers. Given a suggestion by Arner and Furchtgott-Roth (2020), to assess the level of consumer sovereignty, the Malaysian regulator should re-evaluate the transaction process between the consumers and the licensed moneylenders.

## CONCLUSIONS

Claiming to champion consumers' sovereignty will be detrimental for Malaysian policymakers when the changes in the MLA are beyond the reach of common consumers. It can be said that the present state of regulated moneylending is not fully supportive of the consumers. There are 1,493 licensed moneylenders reported in 2020 operating in Selangor and Kuala Lumpur, with each having its own sets of business codes and practices (Ministry of Housing and Local Government, 2021). It is a stark contrast in Ireland; for example, a public consultation effort was conducted to unfold opinions from stakeholders, including the public, on the moneylending interest rates cap, proposal of moneylender's new name change, and methods of advertisement (Department of Finance Report, 2019). Among the advantage of this study is that to improve information flow among the stakeholders, the regulator should adopt prevention strategies and indicators that

denote supportive or detrimental policies for the moneylending industry. NGOs may play a complementary function to the regulator in promoting responsible lending to consumers and moneylenders. To shelve the biased image, instead of siding solely with the consumers, the NGOs should re-think their dominating role as the “new superbrands” (Woolliff & Deri, 2001) and engage actively with the moneylenders’ associations to build trust among the stakeholders. Lastly, to resolve consumer sovereignty, access to information is achievable when there is a proactive relationship between the Regulator, moneylender’s associations, and NGOs.

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