



Regional Report on Needs and Gaps of Consumer Dispute Resolution in ASEAN



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The Association of Southeast Asian Nations (ASEAN) was established on 8 August 1967. The Member States of the Association are Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand and Viet Nam.

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The ASEAN Secretariat
Jakarta



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Table of Contents

I. Introduction	1
1. Objectives and Intended Use	2
2. Approach and Methodologies	2
II. Mechanisms for Consumer Dispute Resolution & Redress across ASEAN	3
1. Internal Complaints-Handling by Businesses	5
2. Alternative & Online Dispute Resolution (ADR/ODR)	6
3. Individual Legal Actions	11
4. Collective Legal Actions	14
5. Actions by Consumer Protection Agencies	17
III. Major Needs and Gaps of Consumer Dispute Resolution & Redress Systems in ASEAN	20
1. Consumer Awareness and Assertiveness	20
2. Legal Frameworks and Procedures	21
3. Institutional Set-up and Mandates	22
4. Resources and Capacity Constraints	23
IV. International Experiences	24
1. United Nations Guidelines on Consumer Protection (UNGCP)	24
2. OECD Recommendation on Consumer Dispute Resolution & Redress	24
3. OECD Recommendation on Consumer Protection in E-commerce	25
4. Experiences of the European Union (EU) on ODR	26
V. Conclusions & Recommendations	27
Annex: Country Factsheets	

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I. INTRODUCTION

Dispute resolution is a key area of consumer protection. Yet many countries struggle with providing effective and low-cost ways for consumers to resolve their disputes and obtain compensation for their losses. This is because consumer disputes have distinctive features that render it impossible to use those mechanisms and procedures traditionally used for other types of economic/commercial disputes. Consumer disputes are often extremely voluminous in numbers, while low in economic value, with great disparity in terms of bargaining power, information and knowledge between the two sides (business vs. consumer), posing the need for tailor-made solutions.

All 10 ASEAN Member States (AMS) now have a general consumer protection law in place, with implementing agencies as well as rules and procedures for consumer dispute resolution and redress. Some systems are less developed than others, since the law has only been passed recently, and institutions and expertise take time to build up. In most AMS, however, mechanisms for dispute resolution and redress were developed to deal with domestic cases and consumer claims that arise from traditional commerce. Advances in regional integration, the development of e-commerce as well as emergence of new business models, goods and services mean these mechanisms are now proving inadequate to meet new requirements and challenges. They need to be critically assessed against international best practices and the changing 'needs' of consumers and other stakeholders, so that any existing gaps could be identified and areas for improvement be suggested.

Meanwhile, the ASEAN High-Level Principles on Consumer Protection (AHLPCP)¹ stress the need for consumers to “*Have Access to Appropriate and Convenient Sources of Advice and Redress including Alternative Dispute Resolution (ADR)*” (Principle No. 4):

‘It is essential that consumers have access to information to enable them to make informed choices and ready access to affordable and easy-to-use dispute resolution arrangements. This principle calls for AMS to establish in-house complaints and redress systems by businesses, national consumer complaint centres by consumer associations, small claim courts, and online dispute resolution (ODR) mechanisms *inter alia*; as well as to provide for adequate administrative penalties to act as deterrent against violations of consumer protection legislations.’

Furthermore, the updated ASEAN Strategic Action Plan on Consumer Protection (ASAPCP)² 2016-2025, under its Strategic Goal 3, calls for “*High Consumer Confidence in the ASEAN Economic Community (AEC) and Cross Border Commercial Transactions to be Instituted*”. The overarching desired outcome for the ASAPCP in 2025 is an environment where consumers can engage in market transactions within their respective countries and elsewhere in the ASEAN region with confidence. However, consumers would only feel confident when they can be reasonably sure that they would be safe/protected from harmful and defective products, any complaints they might have would be fairly resolved, and any damages that they are likely to suffer from would be adequately compensated. Such confidence depends to a great extent on the existence of accessible, independent, fair, accountable, efficient, effective, and transparent dispute resolution and redress mechanisms, including Alternative Dispute Resolution (ADR) mechanisms and Online Dispute Resolution (ODR) mechanisms within and across borders.

Other international instruments on consumer protection also encourage the development of effective consumer dispute resolution and redress mechanisms. For example, the United Nations Guidelines for Consumer Protection (UNGCP) call on governments to “establish or maintain legal and/or administrative measures to enable consumers or, as appropriate, relevant organisations to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible”.³ The Guidelines for Consumer Protection in the Context of Electronic Commerce, developed in 1999 by the Organization for Economic Development and Cooperation (OECD) and updated in 2016, highlight the need for consumer to be provided with “meaningful access to fair,

¹ <<https://aseanconsumer.org/ctermis-regional-cooperation-in-asean/asean-high-level-principles-on-consumer-protection>>

² <<https://aseanconsumer.org/read-news-new-asapcp-2025-and-implementation-schedule-2021-2025>>

³ <https://unctad.org/system/files/official-document/ditccplpmisc2016d1_en.pdf>

easy-to-use, transparent and effective mechanisms to resolve domestic and cross-border e-commerce disputes in a timely manner and obtain redress, as appropriate, without incurring unnecessary cost or burden”.⁴

1. Objectives and Intended Use

Conducted under Strategic Goal 3 of the ASAPCP 2016-2025, this report aims to provide the necessary contextual information and analysis, as baseline for the further development of consumer dispute resolution and redress mechanisms in ASEAN. Specifically, the report would have the following objectives:

- (i) To undertake a comparative analysis of the similarities and differences amongst consumer dispute resolution and redress mechanisms in ASEAN;
- (ii) To assess these existing mechanisms against international best practices and the changing ‘needs’ of consumers and other relevant stakeholders; and
- (iii) To identify any remaining gaps and suggest areas for improvement, towards the long-term vision of having in place effective redress mechanisms within and across all AMS to deal with both domestic and cross-border consumer disputes alike.

Consequently, it could be used by members of the ASEAN Committee on Consumer Protection (ACCP):

- to **provide information** to relevant stakeholders within and outside their respective countries (e.g. business, consumers, policymakers, media, etc) about the different types of consumer dispute resolution and redress mechanisms that are in place in various ASEAN countries;
- to **point out/highlight** any problems and/or challenges caused by the differences amongst these national systems as well as their remaining gaps for the handling of domestic and cross-border consumer complaints; and
- to **formulate/communicate recommendations** to the policymakers on what to do to overcome the challenges/resolve the problems.

2. Approach and Methodologies

The report is based on information and data retrieved from 10 country reports on the needs and gaps of consumer dispute resolution and redress systems of all 10 AMS. Where necessary, additional desk research is undertaken for the purpose of supplementation.

The report consists of four main sections. The first presents an overview of the different mechanisms that exist for consumer dispute resolution and redress in AMS and highlights similarities and differences amongst them. This part looks at mechanisms that may be available to consumers to resolve their individual complaints: from using internal complaints-handling service by business, to alternative dispute resolution (ADR) options, to legal actions at civil courts. It also examines legal actions that consumers can take collectively, and actions that may be taken on behalf of consumers by consumer associations and/or governmental consumer protection agencies.

The second part highlights major needs and gaps of the various consumer dispute resolution and redress systems in ASEAN. It discusses limitations in terms of consumers’ own awareness and assertiveness that are hindering them from submitting their complaints and pursuing their claims; remaining gaps with regards to the existing legal framework and procedures, institutional set-up and mandates as well as the prevalent resource and capacity constraints that are undermining the effectiveness of these systems. It also highlights certain problems and/or challenges caused by the current design and the heterogeneous nature of ASEAN consumer protection systems for the handling of domestic and cross-border consumer complaints.

The third part introduces some recommendations and guidelines by international organizations such as the UN and OECD on this topic, serving as international best practices for ASEAN to use as benchmarks. Finally, some recommendations to help overcome the challenges/resolve the problems identified in the second part for consideration during future reforms.

⁴ <<https://www.oecd.org/sti/consumer/ECommerce-Recommendation-2016.pdf>>

Any comparisons being done within the framework of this report are only meant to highlight the similarities and differences amongst the various redress systems, not to pass any judgment on whether one system is more superior than (an)other(s) in any aspect. Nor is any system considered ineffective or deficient by design, since we believe the systems must have been established to suit each country's unique socio-economic context, legal tradition, culture and endowments. Any mistake in this direction is non-intentional and would be corrected instantly upon receipt of feedback, clarification and information from respective AMS.

More detailed discussions on the consumer dispute resolution and redress system of each AMS are beyond the scope of this Regional Report and could be found in the Country Reports and Factsheets. The report also does not attempt to provide an exhaustive list of all needs and gaps from all AMS but rather attempts to focus only on those most prominent ones that are common to most if not all AMS, or problems that are regional by nature. Recommendations are therefore generic and should be suitably customized for respective AMS.











II. MECHANISMS FOR CONSUMER DISPUTE RESOLUTION & REDRESS ACROSS ASEAN

The national systems for consumer dispute resolution and redress in AMS comprise a combination of different mechanisms (See Table 1 below). Although not available in all countries, three clear categories of mechanism could be identified:

- mechanisms for consumers to resolve their complaints individually – such as internal complaint-handling services/points maintained by businesses, individual legal actions at the courts, and available ADR/ODR options;
- mechanisms for consumers to resolve their complaints collectively – such as through class actions at the courts or representative actions led by consumer associations; and
- mechanisms for government bodies to take actions, usually through administrative procedures, and impose a wide range of remedies/measures on the violating businesses.

These three categories serve distinct yet complementary functions, responding to the varying nature and characteristics of consumer complaints. For example, individual mechanisms, and in particular informal non-judicial mechanisms, are most suited to one-time disputes with legitimate businesses. Collective legal actions can be useful to address cases where large numbers of consumers each suffer small losses as a result of the wrongful actions of the same defendant. On the other hand, mechanisms for governmental consumer protection agencies to intervene on behalf of consumer(s) or on their own initiatives can be effective in cases of fraudulent or deceptive practices, where investigative and other enforcement powers not available to private litigants might prove particularly valuable.

Table 1 - Comparative Overview of Consumer Redress Systems in ASEAN

Components of the Consumer Redress System	 BN	 KH	 ID	 MY	 MM	 LA	 PH	 SG	 TH	 VN
1. Existence of a general law on consumer protection	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
2. Existence of a national consumer protection agency	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
3. Existence of non-governmental consumer organization(s)			✓	✓	✓		✓	✓	✓	✓
4. Redress explicitly recognized as a consumer right by law	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
5. Regulatory requirement for internal complaint-handling by businesses	✓					✓	✓	✓		
6. Availability of in-court procedures for B2C disputes	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

Components of the Consumer Redress System										
	BN	KH	ID	MY	MM	LA	PH	SG	TH	VN
6.1. Existence of small-claims court/tribunal(s)	✓			✓				✓		
6.2. Existence of specialized court/tribunal(s) for consumer cases				✓					✓	
6.3. Availability of special/separate expedite/fast-track/simplified procedures for consumer cases/small claims		✓					✓	✓	✓	
7. Availability of out-of-court procedures for B2C disputes	✓		✓	✓	✓	✓	✓	✓	✓	✓
7.1. Mediation	✓		✓	✓	✓	✓	✓	✓	✓	✓
7.2. Arbitration	✓		✓	✓		✓	✓	✓	✓	✓
8. Other ADR mechanisms for resolving B2C disputes	✓		✓	✓		✓	✓	✓	✓	
8.1. Ombudsman				✓						
8.2. Sectoral regulators/dispute settlement bodies	✓	✓	✓	✓	✓	✓	✓	✓	✓	
8.3. Special/separate mechanism(s) for E-commerce						✓			✓	
8.4. Others						✓				
9. Elements of/towards an ODR system for B2C disputes				✓			✓	✓	✓	✓
10. Government actions to handle consumer abuses	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
11. Possibility of collective actions	✓	✓	✓	✓				✓	✓	✓
12. Special mechanisms/procedures to address cross-border disputes									✓	
13. Compensation & Remedies	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
14. Punitive damages					✓				✓	

Within each category, each AMS might provide for only one or many sub-categories for consumers to choose from. For example, consumer lawsuits might be initiated at the regular courts in accordance with regular court procedures, or in some countries, consumers could file their claims at the court/tribunal(s) specially reserved for low-value/consumer cases in accordance with fast-track/simplified procedures. There are also several ADR options available at the same time. Mediation services could be provided by consumer associations, or a private specialist organisation, or by the court at the pre-litigation stage. For high-value and/or more complex cases, arbitration may be the preferred method by the two sides. In some countries, sectoral agencies or industry ombudsmen could also be approached to resolve B2C (business-to-consumer) disputes.

1. Internal Complaints-Handling by Businesses

Direct negotiation with businesses is usually the first recourse for aggrieved consumers because this method can help them to get concrete solutions for their problems, by obtaining delivery, repair, replacement, or refund of those goods or services that they have purchased, faster and without additional costs (e.g. arbitration/lawyer fee, etc). As a result, some AMS such as Lao PDR and Viet Nam explicitly mentioned and encouraged it in their consumer protection laws as one dispute resolution method. However, this informal mechanism will not be effective in cases where consumers have been the victims of illegitimate businesses or fraudsters.

Maintaining an internal complaint-handling function can also save businesses valuable time and money. It helps to enhance consumer satisfaction and loyalty, avoid more costly and time-consuming external dispute resolution procedures, and even pre-empt the risk of losing reputation. However, not all businesses can afford investing in the development and operationalization of such mechanisms, especially small-and-medium enterprises (SMEs). Hence in most AMS, internal complaint-handling by businesses is optional, except for some specific sectors as reported in the case of Brunei Darussalam, Cambodia, Lao PDR, the Philippines and Singapore.

Under Section 54 of the Brunei Darussalam Central Bank Order 2010 (BDCB Order 2010), the BDCB issues Notices to all financial institutions for the establishment of a complaints handling function. The current Notice is the Notice No. FCI/N1/2021/1 which came into effect in March 2021. Section 3 of the Notice contains the principles, modalities, and procedures which banks must comply with in their complaint handling function. The Notice requires financial institutions in Brunei to resolve consumer complaints within 30 days and matters should subsequently be escalated to the BDCB if such institution is unable to resolve the complaints within 90 days.

The National Bank of Cambodia (NBC), under the provisions of the Law on Banking and Financial Institutions, issued the Prakas No. B7.017.299 Prokor dated 27 September 2017 on “Resolution of Consumer Complaints”. This Prakas mandates all banking and financial institutions in Cambodia to establish a unit in their respective institution called the “Complaint Management Unit”, supervised by a “Senior Consumer Relation Officer”; as well as to create their owned “Consumer Complaint Management Framework.” Also according to the Prakas, no banking and financial institutions shall impose any fee for filing, processing, and/or disposing the complaint submitted by the consumer(s).⁵

In 2020, the Bank of Lao PDR (BOL) also promulgated a Decree on Consumer Protection in Financial Services, requiring all financial services providers in the country to establish a communication unit to receive and respond to consumers’ inquiries and complaints. The contact details of this unit, along with the consumer protection department of the BOL, have to be clearly mentioned in every contract or services offered by the service providers. The service providers also have to clearly display these contact details and their complaint-handling processes in their offices, branches, units or websites. Consumer complaints can be received in writing, verbally (via phone) or electronically (via emails).⁶

In 2008, the Department of Trade and Industry (DTI), Department of Health, and Department of Agriculture – implementing agencies of the Consumer Act of the Philippines – issued Joint Administrative Order No. 1, series of 2008, regarding consumer protection in e-commerce transactions. The Order requires all retailers, sellers, distributors, suppliers, or manufacturers in the Philippines to set up and make operational an internal complaint-handling mechanism for consumer complaints within a maximum period of three (3) months, though the mechanism should not prejudice the rights of the consumers to seek legal redress (Section 9(1)).⁷

In Singapore, an example of such a requirement can be found under Singapore’s Financial Advisers (Complaints Handling and Resolution) Regulations 2021 where the Monetary Authority of Singapore imposes regulatory requirements on financial advisory firms to exercise management oversight and establish policies and procedures for handling and resolving complaints, including complaints of unfair practice in relation to the provision of financial advisory services to consumers, independently and promptly.

⁵ <https://www.nbc.org.kh/download_files/legislation/prakas_eng/Prakas_on_Resolution_of_Consumer_Complaints_ENG.pdf>

⁶ <<https://www.tilleke.com/insights/decree-on-consumer-protection-in-the-financial-sector-in-laos/>>

⁷ <<https://www.wipo.int/edocs/lexdocs/laws/en/ph/ph157en.pdf>>

2. Alternative & Online Dispute Resolution (ADR/ODR)

Where it is not possible to resolve their disputes directly with businesses, consumers then have another relatively fast and low-cost way to obtain redress without the burden and expense of taking formal legal action - alternative dispute resolution (ADR). A wide variety of ADR mechanisms are available in ASEAN, mostly falling into two big categories: consensual versus adjudicative processes.

- **Consensual ADR processes**, including mediation, conciliation, and assisted negotiation, are where a neutral third party facilitates communication between business(es) and consumer(s) to help them reach agreement. In these consensual ADR schemes, decisions are mostly agreed upon by the disputed parties themselves rather than imposed by the third party.
- Arbitration is an **adjudicative process** whereby a neutral arbitrator gathers information from both sides and issues decision to resolve the disputes. The decision is often legally binding and final. Arbitration is usually more expensive (involving the fee for professional arbitrators) and thus often used for more complex cases with higher economic value.

In ASEAN, with the exception of Cambodia (where the consumer protection law does not explicitly provide for mediation as one method of dispute resolution), at least one form of ADR – mediation - is available in all other AMS for resolving B2C disputes. Note that we do not include in this section mediation service at the pre-trial stage, which is required by law in several countries and is often provided by the relevant court/tribunal. Arbitration, on the other hand, is available in most AMS, and is either regulated under a separate legislation on arbitration/ alternative dispute resolution or explicitly mentioned by the consumer protection law (such as in the case of Indonesia, Lao PDR, the Philippines, and Vietnam).

Table 2 - Mediation in ASEAN

Country	Laws & Regulations	Mediator	Notes
Brunei Darussalam	Small Claims Tribunals Order, 2006	Small Claims Tribunal Subordinate Court	The Registrar has the capacity to invite parties involved for a consultation with a view to effecting a settlement acceptable to all parties (Section 17).
		Brunei Darussalam Arbitration Centre (BDAC)	The BDAC has both mediation and arbitration functions. It has two mediation schemes: the Commercial Mediation Scheme and the Small Case Commercial Mediation Scheme.
Cambodia	Law on Telecommunications 2015	Telecom Regulator of Cambodia	No Prakas on detailed processes has been issued yet.
Indonesia	Law No.8/1999 on Consumer Protection	Consumer Dispute Settlement Bodies (BPSK)	It is not clear whether consumer organizations or other private organizations can provide mediation service.
Malaysia	Capital Market and Services Act 2007	Securities Investment Dispute Resolution Centre (SIDREC)	Only for the settlement of disputes in connection with capital market services or products
	Financial Services Act 2013	Ombudsman for Financial Services (OFS)	Only for disputes related to financial services

	Consumer Protection Act 1999	Tribunal for Consumer Claim (TCC) of Malaysia	<p>The TCC is a quasi-judicial body which provides alternative dispute resolutions to consumers which provides the consumers with alternative dispute resolutions mechanism in the form of negotiation and hearing.</p> <p>One of the significant features of the TCC is where the President has been given the power to begin an alternative dispute resolution (ADR) process with negotiation. Negotiation is a discussion and mutual understanding of the requirements of the transaction or agreement. The negotiation process adopted at the TCC is part of the TCC proceeding process (Section 107(1) of the CPA 1999).</p>
	The Mediation Act 2012	Malaysian Mediation Centre and the Chartered Institute of Arbitrators	The Act came into force on 1 August 2012 with the aim of promoting and encouraging mediation as a method of ADR and to facilitate the settlement of disputes in a fair, speedy and cost-effective manner in Malaysia.
Myanmar	Consumer Protection Law 2019	Department of Consumer Affairs (DOCA) - Ministry of Commerce	According to Consumer Protection Law 2019, the relevant offices under Department of Consumer Affairs at the Union Territory, Regions and States are able to receive consumer complaints and settle the dispute between the consumer and entrepreneur by means of mediation.
Lao PDR	Consumer Protection Law 2010	Department of Internal Trade, Ministry of Commerce	
		Dispute Resolution Committees of Village Administration Offices	
		A registered consumer association	No registered consumer association exists at the moment.
The Philippines	Consumer Act	Department of Trade and Industry (DTI)	Mediation is mandatory in all consumer complaints involving the violation of the Consumer Act of the Philippines and Other Fair-Trade Laws. It is a condition precedent for the filing of formal complaints for adjudication under Rule IV Department Administrative Order No. 20-02 Series of 2020.

			Mediation may result in either an amicable settlement between parties or failure of mediation leading to the issuance of a Certificate to File Action (CFA). If CFA is issued, the complainant may proceed to file a formal complaint to the proper office of the DTI for adjudication purposes.
Singapore	Consumer Protection (Fair Trading) Act 2003 ("CPFTA") Estate Agents (Dispute Resolution Schemes) Regulations 2011	Consumer Association of Singapore (CASE)	Under Singapore's consumer protection framework, CASE is the first point of contact for consumers with business-to-consumer disputes. CASE can assist consumers in seeking redress and in some cases, compensation through negotiation and/or mediation. CASE can also engage egregious suppliers to ensure that they conduct their business fairly by entering into a voluntary compliance agreement with them. CASE is also one of the prescribed dispute resolution centres under The Council for Estate Agencies' Mediation Sub-Scheme for the resolution of disputes arising from prescribed estate agency agreements entered into between consumers and licensed estate agents for the sale or lease of residential property.
	Monetary Authority of Singapore (Dispute Resolution Schemes) Regulations 2007	Financial Industry Disputes Resolution Centre (FIDReC)	FIDReC handles disputes between financial institutions and consumers.
	Mediation Act 2017 Estate Agents (Dispute Resolution Schemes) Regulations 2011 Info-communications Media Development Authority Act 2016	Singapore Mediation Centre (SMC)	Pursuant to Section 7 of the Mediation Act 2014 and the Press Release by the Ministry of Law on 1 November 2017, SMC is one of the designated mediation service providers in Singapore. The SMC offers a range of schemes for disputes involving individual consumers. It is also the prescribed dispute resolution centre under the Council for Estate Agencies' Mediation Sub-Scheme for the resolution of disputes arising from prescribed estate agency agreements entered into between consumers and licensed estate agents for the sale or lease of residential property. The SMC has also been appointed by the Infocomm Media Development Authority ("IMDA") to administer the Telecommunication and Subscription ADR Scheme which covers consumer disputes related to telecoms and media services.

	Estate Agents (Dispute Resolution Schemes) Regulations 2011	Singapore Institute of Arbitrators Singapore Institute of Surveyors & Valuers	These are prescribed dispute resolution centres under The Council for Estate Agencies' Arbitration Sub-Scheme for the resolution of disputes arising from prescribed estate agency agreements entered into between consumers and licensed estate agents for the sale or lease of residential property.
Thailand	Consumer Protection Act 1979	Office of Consumer Protection Board (OCPB)	The OCPB shall have the powers and duties to receive complaints from the consumer who suffer hardship or injury resulting from the acts of the business man for further submission to the Board; and to follow up and scrutinize actions of the businessman who may do anything infringing the consumer's right, and arrange for testing or verifying any goods or services as it think proper for the protection of the consumer's right.
	Direct Sales and Direct Marketing Act 2002		The OCPB has authorities under Direct Sales and Direct Marketing Act to review complaints from consumers who suffer damages from the undertaking of an independent distributor, direct sale agent, direct sale business operator, or direct marketing business operator. If the business operator and consumers cannot reach a compromise, or the business operator does not respond the compensation to the consumer, the Secretary-General of Consumer Protection Board as the Direct Sale and Direct Marketing Registrar, has the power to deduct the company's collateral deposited with the OCPB to compensate for damages to consumer.
		Office of the Insurance Commission	For B2C disputes related to insurance services
		Office of the National Broadcasting and Telecommunications Commission	For disputes related to telecommunication services
	Consumer Case Procedure Act 2008	Court of Justice	To offer fast-track court procedures for the resolution of consumer cases, i.e. pre-litigation mediation, including cases brought by under the Product Liability Act 2008.

Vietnam	Law on Protection of Consumer Rights in 2010	Vietnam Competition & Consumer Protection Authority (VCCA) - Ministry of Industry & Trade	
		Provincial Departments of Industry and Trade (DOITs)	
		Registered consumer organizations	Such as the Vietnam Consumer Protection Association (VICOPRO)
	Rules, Procedures and Conditions regarding the use of Electronic Judicial Procedures 2021		Mediate before lawsuit in online purchasing for B2C
	The Establishment of Consumer Organization Council Act 2019	Consumer Organization Council / Association or Foundation concerning Consumer Protection who registered with the OCPB under CP Act 1979	The Consumer Organization Council, including the associations or foundations concerning consumer protection who are registered with the OCPB, has the authority to support and assist members in the mediation or compromise of the disputes concerning the violation of consumer rights, before and during the court case. (Article 14(6))

In recent years there has been an increasing use of digital technologies and of the Internet as the medium for ADR processes, thus coined the term ODR, or online dispute resolution. There are different forms of ODR, including fully automated mechanisms (where outcomes are generated without human intervention), or assisted negotiation and mediation which involve active participation of a third party. While some ODR services may only be used to resolve disputes arising from online or e-commerce transactions, most commonly they may be used for all forms of disputes, whether online or offline. In some countries, even the judiciary is experimenting with the use of ICT and the Internet such as through electronic filing or e-court proceedings.

In ASEAN, Thailand is the country where most advances have been made with regard to using ODR for resolving B2C disputes. The Office of Consumer Protection Board (OCPB) has introduced an online mediation platform called OCPB D-Mediate, under the OCPB ODR system since 2019, using Cisco-Webex meetings. The OCPB D-Mediate system is used with regards to receive all of consumer disputes such as being piloted with regards to consumer disputes in the area of unapproved loan for real estate, advanced deposit for vehicles, defective products, or where the products received by consumers are not in conformity with the advertisements.⁸ The OCPB ODR system can resolve the e-commerce disputes of b2c and provides fully online procedure such as complaint handling, dispute resolution by mediation, establish lawsuit agreement, follow the progress, manage the appointment with competent official and surveillance with the statistics included name list of unfair businesses. Consumers in Thailand could also use a website and mobile application developed by the OCPB called OCPB Connect for sending online complaints to the OCPB and other government authorities, checking information and registration of business operators, and getting updated with warnings and other useful information.⁹

⁸ See OCPB D-Mediate at <<http://dmediate.ocpb.go.th/authen>>

⁹ See OCPB Connect at <<https://ocpbconnect.ocpb.go.th/>>

Another initiative is called Talk DD, an online alternative dispute resolution platform under the supervision of Thailand Arbitration Center for resolving e-commerce disputes between business operators and consumers. Talk DD provides fully online facilitation: from online complaining, to online negotiation, and online mediation service, completed with a system-generated settlement agreement or further recommendations should mediation fail.¹⁰

Some other AMS are also starting to develop [some elements of] their own ODR systems for B2C disputes. In September 2020, the Philippine Department of Trade & Industry (DTI) issued Department Administrative Order No. 20-05 on the Development of the Philippines Online Dispute Resolution System. Through the system, the DTI aims to develop and establish an integrated system by which all consumer complaints are received, docketed, transmitted, and resolved, providing a network facility for the tracking, ageing and status updating of cases.¹¹ The Vietnam Competition & Consumer Protection Authority (VCCA) is also in the process of developing a consumer portal, which would allow consumers to file and track the progresses of their complaints online, as well as facilitate case referral and corresponding actions by relevant State agencies.¹²

3. Individual Legal Actions

In principle, almost around the world, even without the promulgation of a consumer protection law, consumers could still obtain redress through individual legal actions at the civil courts. However, recognizing that the court system is often beyond the reach of the average consumers with low value claims, many countries, including in the ASEAN region, have introduced simplified court procedures for small claims. These procedures are designed as informal alternatives to traditional civil court proceedings, allowing consumers to resolve disputes and obtain redress at a cost and burden not disproportionate to the value of their claim. Being independent, binding and enforceable, these procedures offer consumers the main benefits of the judicial system without the high costs, delay and procedural complexities often associated with the regular courts.

There are two broad categories of court procedures to resolve small consumer claims:

- **Separate courts or tribunals of limited jurisdictions** - In many countries including in the ASEAN region, small consumer claims are resolved by separate courts or tribunals of limited jurisdiction. In some countries, these tribunals or courts are especially reserved for consumer disputes, while in others they handle all minor legal matters. The distinguishing characteristic of these courts and tribunals is that they only handle small cases, as determined by the value claimed, and usually operate under less formal procedures than the higher courts. The filing fee is often very small, or reduced/waived, and legal representation is not allowed (so as to reduce costs and ensure more balance of bargaining power).
- **Modified procedures in ordinary courts** - In a number of countries, small consumer claims are resolved by courts of first instance operating under simplified and/or expedite procedures. Very often, these courts have a separate division/section/bench to handle small claims.

The following table provides an overview of the various courts, tribunals and/or special procedures available in AMS to deal with small consumer cases. These courts, tribunals and procedures vary significantly from one country to another, depending on their respective legal system, tradition and judicial structure. As can be seen, there are also differences in terms of the types of disputes and claims that may be heard; monetary thresholds; and requirement of filing fees.

Table 3 - Small-Claims Courts/Procedures in ASEAN

Country	Law & regulations	Name	Value Threshold	Filing fees	Legal Representation
Brunei Darusalam	Small Claims Tribunal Order, 2006	Small Claims Tribunal	Up to \$10,000 BND (~US\$7,420)	For consumers, the filing fee starts at B\$10 for claims not exceeding	Not allowed

¹⁰ See Talk DD at <<https://talkdd.com/?lang=en>>

¹¹ Department Administrative Order No. 20-05, *Development of a Philippine Online Dispute Resolution System*, <https://dtiwebfiles.s3-ap-southeast-1.amazonaws.com/Laws+and+Policies/Consumer+Laws/DAO20-05_POADRS.pdf>

¹² See <<https://www.bvntd.gov.vn/>>

				B\$5,000; and B\$20 for claims exceeding B\$5,000 but not exceeding \$10,000. For non consumers, the filing fee starts at B\$50 for claims not exceeding B\$5,000; and \$100 for claims exceeding B\$5,000 but not exceeding \$10,000.	
Cambodia	Code of Civil Procedures 2006	Small Claims Proceedings	Not more than 1 million KHR (~US\$250)	No advance deposit	Allowed
Indonesia	No info	No info	No info	No info	No info
Malaysia	Order 93 of the Rules of Court 2012 (ROC)	Small Claims Procedures/ Court	Not more than 5,000 RM (~US\$1,205)	20 RM (~US\$4.8)	Not allowed
	Consumer Protection Act 1999	Tribunal for Consumer Claims of Malaysia	Not more than 50,000 RM (~US\$12,050)	5 RM (~US\$1.2)	Not allowed
	Housing Development (Control & Licensing) Act 1966	Tribunal for Homebuyer Claims	Up to 50,000 RM (~US\$12,050) or more, agreed by both parties in writing	10 RM (~US\$2.4)	Not allowed
Myanmar	Myanmar Small Cause Courts Act 1989	Not available	Not available	Not available	Not available
Lao PDR	Consumer Protection Law 2010	Consumer Protection Organization at District and Provincial Level	Not more than 100 million LAK (~US\$9,620) at District Level and up to 100 million LAK at Provincial Level	Not prescribed	No info
The Philippines	Rules of Procedure for Small Claims Cases by the Supreme Court	Metropolitan Trial Courts (MeTC), Municipal Trial Courts (MTC),	One Million Pesos (PhP1,000,000.00), regardless of whether the case is filed within or outside Metro Manila. This covers	Same as the filing fees prescribed under the Rules of Court of the Philippines	Not allowed

¹³ The Law on Civil Procedures 2015 of Vietnam stipulates about 'fast-track' procedures under its Articles 316-321, however there is apparently a mismatch regarding terminologies used by this Law and the Consumer Protection Law 2010. Whether a lawsuit would be handled in fast-track procedures or not would be decided by the hearing judge within one (01) month from the date the case is entered into the acceptance register (Article 318), if the judge

		Municipal Circuit Trial Court (MCTC) and the Municipal Trial Courts in Cities (MTCC)	claims or demands for money owed under contracts of lease, loan and other credit accommodations, services, and sale of personal property.		
Singapore	Small Claims Tribunals Act 1984 Consumer Protection (Fair Trading) Act 2003 ("CPFTA")	Small Claims Tribunals	Up to \$20,000 SGD (~US\$14,840) or up to \$30,000 SGD (~US\$22,260) if both parties agree Where the consumer is relying on the CPFTA to commence an action at the SCT, the prescribed limit for the claim is \$30,000 SGD (~US\$22,260).	For individuals, the filing fee is (a) \$10 SGD (~US\$7.4) for claims up to \$5,000 SGD (~US\$3,710) , (b) \$20 SGD (~US\$14.80) for claims above \$5,000 SGD (~US\$3,710) but up to \$10,000 SGD (~US\$7,420), and (c) 1% of the amount claimed for claims above \$10,000 SGD (~US\$7,420), but does not exceed \$30,000 SGD (~US\$22,260).	Not allowed
Thailand	Consumer Protection Act 1979 Consumer Case Procedural Act 2008	Consumer Division in the Civil Court (Inquisitorial system)	Not prescribed	Exempted	Not allowed
Vietnam	Law on Protection of Consumer Rights in 2010	Civil Court (simplified procedures) ¹³	Up to 100 million VND (~US\$4,400)	No advance deposit	Not prescribed
	Civil Procedures Code 2015	Civil Court (fast-track procedures)	For non-complex cases as determined by the hearing judge	Not prescribed	No info

4. Collective Legal Actions

Collective actions are lawsuits filed by groups of consumers who have each suffered similar harm as a result of the actions of the same violating business(es). Collective actions can be particularly useful in cases where large numbers of consumers have each suffered small losses. It offers an avenue for redress to consumers who, due to the low value of the claim, would not be willing to undertake the burden and cost of individual legal actions, even through the small claims procedures discussed above. The threat of collective action lawsuits can also play an important role in regulating the marketplace, depriving defendants of ill-gotten gains and deterring future wrongful or irresponsible commercial behaviors.

Collective action lawsuits might differ from country to country both in form and in name. They could also be called class actions, or representative actions – in which a large number of individuals consolidate their claims into a single case against a defendant.

In some countries, the rights of consumers to take private legal action are supplemented by the rights provided to consumer organizations to file lawsuits on behalf of a consumer or, more frequently, a group of consumers. Like private collective actions, actions by consumer organizations are particularly useful in cases of widespread consumer harm, providing a mechanism to prevent or remedy wrongful conduct by a defendant that may otherwise go unchecked.

As can be seen from the following table, the mechanisms for collective consumer lawsuits differ significantly from one AMS to another. While the laws of many ASEAN countries allow consumer organizations/associations to represent consumers and/or their members in filing such lawsuits, procedural rules and practical.

Table 4 - Collective Actions in ASEAN

Country	Laws & Regulations	Collective Actions	Role of Consumer Organizations
Brunei Darusalam	Small Claims Tribunal Order, 2006	Sections 28,29, and 30 of the Order which deal with merged claims, representative claims, and joint claims respectively, it is possible to conceive a scope for collective actions which may significantly increase the likelihood that consumers would seek redress.	No consumer organization exists at the moment.
Cambodia	Code of Civil Procedures 2006	A joint litigation (collective action) is also recognized under Cambodian civil procedures and individuals who have interest in the dispute may opt-in/join the proceeding.	
	Law on Consumer Protection 2019	Registered consumer associations can act as a representative before the National Commission for Consumer Protection or before the court on behalf of any Consumer or Consumer group whose rights and interests have been violated.	No consumer organization exists at the moment.

Indonesia	Law No.8/1999 on Consumer Protection	Charges against violations by the entrepreneurs can be filed by a group of consumers who have common interests...	... or a non-governmental consumer protection foundation which has met the requirements, both in the form of a legal entity or foundation, whose articles of association clearly mention that the objective of the establishment of the said organization is to protect the consumers and has conducted activities pursuant to its articles of association.
Malaysia	Order 15 rule 12(1) Rules of Court 2012	Representative actions are governed by strict legal requirements, i.e. the plaintiffs must be members of the same class (e.g. house buyers from the same developer), have a common grievance, and the relief sought must be beneficial to all the represented persons.	It is possible but very difficult for consumer associations to file civil suits due to the preceding requirements.
Myanmar	Consumer Protection Law 2019	No info	Registered consumer associations can receive complaints for referral to government agencies and advise consumers on the validity of their claims. They can also assist and represent their members and general consumers in filing complaints.
Lao PDR	Consumer Protection Law 2010	According to Article 31 of Consumer Protection Law 2010, Consumer Protection Association could be the representatives of the consumers in the settlement of disputes and file claims against the suppliers.	No consumer organization exists at the moment.
The Philippines	Rules of Court, Rule 3, Section 12	A "class suit" is allowed "when the subject matter of the controversy is one of common or general interest to many persons so numerous that it is impracticable to join all as parties." In which case, several of them may be allowed to sue or defend for the benefit of all.	Recognized Consumer Organizations may upon request represent a consumer or group of consumers in public hearings/consultations, consumer-related issues and concerns.

Singapore	Order 4, Rule 6 of the Rules of Court 2021	Where numerous persons have a common interest in proceedings and all members in the group give their consent in writing to one or more representative(s), such persons may sue as a group with the representative(s) representing the group in the courts.	No specific role for consumer association to represent consumers in civil lawsuits.
	Section 27 of the Small Claims Tribunals Act 1984	If two or more persons have claims against the same respondent in the Small Claims Tribunals, these claims may be brought in the name of one such person as the representative of some or all of them at the Small Claims Tribunals. The aggregate value of the claims of persons represented in a representative claim at the Small Claims Tribunals must not exceed \$30,000 SGD (~US\$22,260).	No specific role for consumer association to represent consumers in civil lawsuits.
Thailand	Civil Procedures Code 2015	According to Article 222/8 of the Civil Procedure Code, class action can be applied to consumer cases.	When the case is not specifically provided for in the Consumer Protection Act, such as complaint on franchises etc.
	The Establishment of Consumer Organization Council Act 2019		Article 14 (7) allows the Thai Consumer Council to act on behalf of consumers to bring the case to the court where it is deemed appropriate or consumers request TCC to do so. (Representative Litigation)
Viet Nam	Law on Protection of Consumer Rights in 2010	Consumer associations could represent consumers (members and non-members alike) in consumer lawsuits or initiate public-interest lawsuits on their own (Article 28(1b)).	Information about public-interest lawsuits initiated by consumer associations would have to be publicized so as to guarantee the right of consumers who want to join such legal action (Art. 44). Consumer associations initiating such action would have to pay for all of their costs and expenses; while any compensation in such actions would be decided in line with the court judgments. This is considered quite discouraging for consumer associations in Vietnam from initiating representative actions.

5. Actions by Consumer Protection Agencies

In many countries, the law allows the governmental consumer protection agencies, on the basis of consumer complaints or their own detection, to take actions, investigate and impose a number of remedies on violating businesses. These remedies can be broadly characterized as conduct remedies and monetary remedies.

- **Conduct remedies** can involve injunctions, cease-and-desist orders and related measures. Typically this type of remedy is aimed at directly preventing certain types of conduct that breach the law. In some unusual circumstances, conduct remedies may impose affirmative conduct obligations, usually requiring a party to disclose information to clarify the products or services for the consumer.
- **Monetary remedies** can take a variety of forms, including fines or civil penalties, which are intended to deter infractions of the law, and disgorgement orders, which deprive a wrongdoer of the profits of the unlawful activity. The proceeds of both of these remedies usually end up back in government treasuries.

The following table summarizes the mandates of consumer protection agencies around ASEAN to take actions against business wrongdoings. Such mandates could be particularly useful in those countries where limited consumer awareness, competence and assertiveness means consumers cannot be relied upon to exercise their own rights, resulting in a limited number of consumer claims and legal actions. In these cases, governmental agencies as well as consumer associations would play a key role in detecting, exposing and correcting fraudulent or deceptive practices, affecting large numbers of consumers. As government consumer protection agencies have at their disposal investigative and other enforcement powers that are not available to private litigants, they are often in a unique position to tackle such cases and obtain redress for consumers.

Table 5 - Actions by Consumer Protection Agencies in ASEAN

Country	Laws & Regulations	Consumer Protection Agencies	Mandates/Actions
Brunei Darusalam	Consumer Protection (Fair Trading) Order, 2011 (amended in 2015)	Department of Consumer Affairs (DCA), Department of Economic Planning and Statistics, Ministry of Finance and Economy	The Order enables the DCA to seek a declaration or an injunction against an offending business or to invite the business to enter into a voluntary compliance agreement. (Section 8 & 9)
Cambodia	Consumer Protection Law 2019	National Commission for Consumer Protection (NCCP)	The NCCP may receive a complaint and investigate any matter in relation to breach of consumer protection by (i) its own initiation, (ii) its receipt of complaint from any individual or consumer association, (iii) complaint from any competent regulator. The NCCP's commissioner has the power of judicial police and could investigate any criminal offenses provided under the Law on Consumer Protection. The NCCP also has the power to decide on the complaint and/or investigation and may impose administrative sanctions, if necessary. The NCCP may decide to (i) redisclosure or re-dissemination of information and (ii) deprive any individual from acting in managerial position of any legal entity in Cambodia. A period of such deprivation shall not be less than 2 (two) years and exceeded 5 (five) years.

		Consumer Protection, Competition and Fraud Repression Directorate-General (CCF) - Ministry of Commerce	The CCF acts as the investigative arm of the NCCP.
Indonesia	Law No. 8 of 1999 on Consumer Protection	Directorate General of Consumer Protection and Trade Compliance, Ministry of Trade of Indonesia	No info
		Consumer Dispute Settlement Bodies (BPSK)	The BPSKs are also authorized to impose administrative sanctions on the entrepreneurs who have violated relevant provisions of the Law. (Article 52(m)) The administrative sanction shall be determined in maximum amount of Rp. 200, 000,000 (two hundred million rupiah). (Art. 60) Additional penalties can also be imposed in the form of: confiscation of certain goods; announcement of judge's decision; payment for damages; injunction to stop certain activities that cause damages to the consumers; the obligation to pull out goods from circulation; or revocation of business permit (Article 63)
Malaysia	Consumer Protection Act (CPA) 1999	Ministry of Domestic Trade and Cost of Living (MDT)	Aggrieved consumers can also lodge a complaint with the Ministry of Domestic Trade and Cost of Living (MDT), through telephone, Website, Mobile application (EzAdu), Whatsapp, Email, letter, walk in to MDT Office, to its Consumer Complaint Management Centre (CCMC). The MDT would then refer the complaints to the relevant agencies.
Myanmar	Consumer Protection Law (2019)	Ministry of Commerce, Department of Consumer Affairs (DOCA), Myanmar Consumer Commission, Consumer Affairs Committees (the Union Territory, Regions and States)	The relevant offices under Department of Consumer Affairs at the Union Territory, Regions and States are able to receive consumer complaints and conduct mediations. If needed, one or more administrative orders in a form of warnings, remedy, providing substitute and refunds can also be made in accordance with the Consumer Protection Law. In addition, Consumer Affairs Committees are able to pass one or more administrative orders in a form of providing compensation for damage, imposing a fine, prohibiting the sale of the disputing goods or service for a limited period and revoking the business licence temporarily or permanently while coordinating with the relevant government department in accordance with the Consumer Protection Law.

Lao PDR	Consumer Protection Law 2010	Ministry of Industry and Commerce (MOIC), Ministry of Health, Ministry of Agriculture and Forestry, and the Ministry of Science and Technology	The complaints about the activities in the manufacturing, marketing and pricing of goods and services and other fields that are not under the responsibilities of any other agencies shall be submitted to the Division of Internal Trade under the Department of Industry and Commerce of Provinces/Capital for provincial/capital level for the complaint with total values above \$100,000,000 LAK (~US\$9,620), and submitted to the Unit of Domestic Trade under the Office of Industry and Commerce of Districts for district level for the complaint with total values below \$100,000,000 LAK (~US\$9,620).
The Philippines	Consumer Act of the Philippines and other Fair Trade laws	Department of Trade and Industry (DTI)	The main implementing agencies of RA 7394 or Consumer Act of the Philippines are the Department of Health (DOH) with respect to food, drugs, cosmetics, devices, and substances; the Department of Agriculture (DA) with respect to products related to agriculture, and the Department of Trade and Industry (DTI) with respect to other consumer products not specified above.
Singapore	Consumer Protection (Fair Trading) Act 2003 ("CPFTA")	Competition and Consumer Commission of Singapore (CCCS)	As the administering agency of the CPFTA, the CCCS will gather evidence against persistent errant retailers, file injunction applications with the courts against persistent errant retailers and enforce compliance with injunction orders issued by the courts. If the supplier under injunction does not comply with the injunction order, CCCS can take the supplier to court for contempt of court.
Thailand	Consumer Protection Act	Office of the Consumer Protection Board	The OCPB is the governmental agency that is primarily and directly responsible for the protection of consumers in Thailand, including receiving complaints, mediating and bringing cases to court on behalf of the consumers.

Viet Nam	Consumer Protection Law 2010	Vietnam Competition & Consumer Protection Authority (VCCA) - Ministry of Industry & Trade (MOIT) at the central level and Provincial Departments of Industry and Trade (DOITs) at provincial level	Consumers and consumer associations could denounce businesses violating laws and regulations on consumer protection, harming the interests of a large number of consumers or harming public interest, by submitting a complaint/request informing the State agencies in charge of consumer protection directly or in writing (Article 25(1)). These agencies (VCCA and DOITs), upon finding that the consumer interests have been violated, could impose the following sanctions: (i) Forcing business individuals and organizations to withdraw and destroy goods or stop supplying goods or services; (ii) Suspending or suspending temporarily the business activities of the violating organizations or individuals; and (iii) Forcing business individuals and organizations to eliminate provisions that violate the interests of consumers from the form-based contract, general trading conditions. (Article 26)
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III. MAJOR NEEDS AND GAPS OF CONSUMER DISPUTE RESOLUTION & REDRESS SYSTEMS IN ASEAN

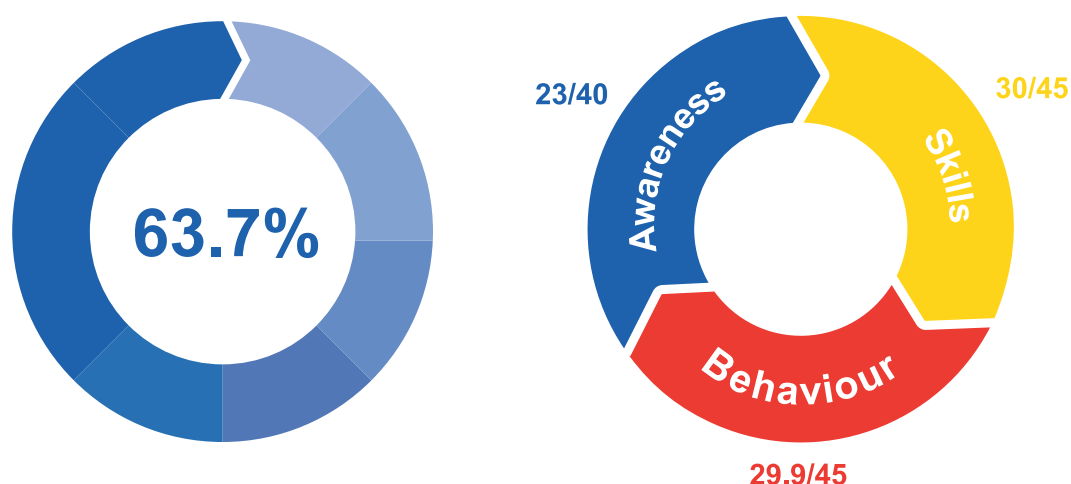
1. Consumer Awareness and Assertiveness

A major gap that was pointed out by all the 10 country reports is the limited level of consumer awareness and assertiveness in all AMS that is hindering consumers from submitting and pursuing their claims/complaints against violating businesses. Specifically, the following patterns could be discerned from the country reports:

- Consumers are not aware of and/or do not have good understanding of the various dispute resolution and redress mechanisms (e.g. how to make a complaint, who to complain to, how to pursue a complaint, etc) available in their own countries.
- In some cases, consumers do not have very high confidence of the capability/ effectiveness of the consumer protection systems in helping them to resolve disputes and obtain redress, and thus are hesitant in lodging their complaints and/or approaching the agencies and/or consumer organizations.
- Consumers also feel that the dispute resolution and redress procedures are onerous, complex and time-consuming, in a nutshell not 'consumer-friendly' enough. On the other hand, the value of their claim/ issue is too small and hence is not worth investing the time and effort.
- Last but not least, the notion of 'consumers' timidity' or the traditional lack of a 'complaint culture' in the region cannot be completely dismissed, even amongst more informed and modern consumers.

These findings resonate to a great extent with results of the pilot implementation of the ASEAN Consumer Empowerment Index (ACEI) in 2020, whereby across the whole region, consumers are found to be only **Moderately Empowered** (See Figure 1 below). Specifically, in the first domain of the Index regarding Consumer Awareness or Knowledge, ASEAN consumers scored the highest with regards to Consumer Rights and Responsibilities, but the lowest for Redress Mechanisms and Consumer Advocacy/Education Programs. This may indicate that some consumers do not know where and how to lodge an official complaint even if they know their rights. In the third domain of the Index regarding Consumer Behaviors or Assertiveness, ASEAN consumers showed that they have the highest tendency to Compare Amongst Different Products, as well as Read Terms and Conditions before Purchase. However, they are least likely to Participate in Consumer Groups/Associations and to Contribute to Policy-making/Act as Agent-of-Change.

Figure 1 – Results of the ASEAN Consumer Empowerment Index



This means consumer protection agencies as well as consumer organizations in ASEAN need to step up their activities with regards to information dissemination, consumer education and advocacy to plug this 'knowledge gap' and build confidence. Not only consumers need to be informed/educated about their rights and legitimate interests, they ought to be provided with information about available redress mechanisms (i.e. where to find them and how to use them) and encouraged to assert their rights more proactively.

2. Legal Frameworks and Procedures

Another problem which is no less challenging than the matter of consumer awareness and assertiveness, as highlighted by most country reports, is how to improve the existing legal frameworks and procedures in AMS as well as create regional cooperative mechanisms for resolving e-commerce and cross-border consumer disputes.

Increased mobility and the growth of the online marketplace have significantly increased the possibility for consumers and businesses to engage in transactions over great distances and without regard to geographic borders, local cultures and legal frameworks. While consumers enjoy enormous benefits, such as greater choice and competitive price, they also have new 'needs', most of all to be able to resolve their disputes with businesses based in other countries in ASEAN or beyond in an accessible, effective, and fair way. However, in most AMS, the mechanisms for consumer dispute resolution and redress were developed to address only domestic cases and are therefore not adequate to provide consumers with remedies across borders.

To begin with, the law might not give consumer protection agencies and dispute settlement bodies sufficient legal authority to take on extraterritorial cases. Even where the legal authority is not a problem, consumer protection agencies would still be faced with a multitude of procedural challenges. This includes investigations against foreign-based businesses, obtaining evidence located overseas, confidentiality rules, due process, or the practical matter of how to enforce the agencies' orders/decisions over foreign nationals/businesses, etc.

Furthermore, in cross-border cases where consumers want to resolve disputes and obtain redress through the courts, there are also significant legal issues. Of particular significance is the issue regarding which court

would have jurisdiction to hear a cross-border case¹⁴ and which law will be applied to determine the outcome¹⁵. Variations in terms of the legal frameworks and applicable procedures across the region as discussed in the earlier section would not only discourage the aggrieved consumers (who have to navigate the legal maze) but also make it impossible for consumer protection agencies to cooperate and collaborate.

The emergence of new business models, products and services in the digital economy further aggravates the matter. AMS would need to update their legal framework to cover new practices affecting consumers such as online scams, fake news, peer-to-peer lending, dark patterns, algorithmic pricing, data mining, etc. Dispute settlement bodies and the courts would have to address new issues such as anonymous seller/traders, platform/third-party liabilities, privacy rights and data protection. Even though one could argue that principles, rules and regulations on consumer protection would apply in all cases, be it traditional commerce in brick-and-mortar stores or online/digital transactions, AMS should subject consumer protection laws to regular review for continued relevance and effectiveness.

In order to address cross-border B2C disputes, the ACCP has been developing a regional consumer complaint-handling system embedded in its regional web portal at <<https://www.aseanconsumer.org/>>¹⁶. This is essentially a referral system, which allows a consumer complaint, submitted online from anywhere, to be directed to the focal point (usually a national consumer protection agency, who is also a member of the ACCP) of the AMS where the alleged business is based. Alternatively, ASEAN consumers could also submit a complaint to the focal point in their country, which would review the complaint and then forward it to their counterpart of the AMS where the alleged business is based. The focal point/consumer protection agency of the country where the alleged business is based would then be responsible for contacting the alleged business, examining relevant details/evidence, etc and then getting back to the complaining consumer with feedback or a proposed solution¹⁷.

This system's major weakness lies in the fact that it relies entirely on agency-to-agency cooperation amongst ACCP members and can only deal with simple cases where the wrongdoings are obvious, with complete documentation/evidence, and straightforward solutions such as replacement/repair of goods and/or return of money. Resolving more complex disputes, especially those that invokes different legal provisions and procedures in the home countries of the consumers and the businesses, would be much more challenging and require at least several loops of consultation.

Other issues that ought to be considered include the language barriers across countries, the difficulty in identifying and contacting the alleged business, the enforceability of decisions/solutions across border, the possibility of appealing to the court of law, etc. This points to the need to promote more convergence or harmonization of legal frameworks on consumer protection in ASEAN, or at least the aligning of approaches and procedures.

In order to deal with cross-border B2C disputes more effectively, consumer protection agencies in ASEAN should consider entering into bilateral and/or regional cooperative agreements/arrangements such as memoranda of understanding (MOUs) or agreed minutes on concrete issues such as case referral, the modalities for joint, parallel and/or assisted investigation, conditions for mutual recognition and enforcement of decisions/outcomes, etc.¹⁸ This would go much further than the general provisions on cooperation, technical assistance, and capacity building on consumer protection in Regional and Free Trade Agreements (RTAs and FTAs) such as the Regional Comprehensive Economic Partnership Agreement (RCEP).¹⁹

3. Institutional Set-up and Mandates

The under-developed state of ODR systems for resolving consumer disputes in several ASEAN countries was also highlighted by the country reports. Given the wave of digital transformation sweeping around the world, many countries are turning to ODR mechanisms as a cost-effective and convenient way to facilitate consumer

¹⁴ In disputes arising from cross-border transactions, unless the consumer is willing to institute legal proceedings in the country where the business is located, s/he will have to demonstrate that the courts of her/his country have jurisdiction to hear the case.

¹⁵ In contract cases, where the parties have agreed as to what law will be applied in the case of an eventual dispute, the basic principle of "freedom to contract" is often applied and the parties' choice respected. In non-contractual cases, the most popular approach to resolving conflicts of laws issues is to apply the law of the place where the cause of action arose (*lex loci delicti*). Other approaches are to apply the law of the country where the damage was sustained or the law of the country with which the situation is most closely connected.

¹⁶ This complaint-handling mechanism, however, is not activated yet at the time of writing this report.

¹⁷ A detailed step-by-step process is being proposed in a Regional Guidelines on Cross-Border B2C Dispute Resolution (draft) to be endorsed by the ACCP.

¹⁸ Such an MOU, for example, was concluded by the Consumers Association of Singapore (CASE) and the Federation of Malaysian Consumers Associations (FOMCA) in August 2010 (https://www.case.org.sg/admin/news/pdf/60_pdf.pdf).

¹⁹ <<https://rcepsec.org/wp-content/uploads/2020/11/Chapter-13.pdf>>

access to redress. The COVID-19 pandemic, with restricted rules on travel and human interactions, further highlight the need for such platforms which use technologies to reduce the need for physical presence during proceedings. Yet in ASEAN, only Thailand can be said to have gain notable tractions in this regard. Other countries are still only at the planning stage, or starting with preliminary steps such as allowing for online filing and tracking of consumer complaints.

At the same time, the increasing use of novel technologies is also rendering consumers more vulnerable to exploitation and manipulation, without even being aware that they have been victimized. In such cases, as well as vis-à-vis large-scale fraudulent and deceptive business practices, government agencies enjoy certain advantages to expose the wrongdoings and obtain redress for consumers thanks to their investigative and enforcement powers. Therefore, the scope for consumer protection agencies to take actions should be widened, from solely depending on consumer complaints, to being able to act on the basis of whistle-blowers' tip-offs or out of their own volition.

In addition to the imposition of administrative penalties (e.g. cease-and-desist orders, fines, withdrawal of business licenses, public warnings, etc) as largely the case in ASEAN, perhaps consumer protection agencies should also be given the authority to order for monetary redress. Orders for monetary redress would recover monies wrongfully obtained by business for return directly to injured consumers. In addition to alleviating consumer injury, redress orders would serve a deterrent function by depriving the wrongdoer of the ill-gotten gains.

To complement government actions, collective lawsuits, especially those led by consumer associations, should be encouraged more in ASEAN. This mechanism would be useful in helping consumers to overcome their hesitation ("The value of my claim is too small and not worth taking any action") and timidity ("I don't want to be the only one who complains"). Furthermore, each member of the class would be able to benefit from the knowledge, skills and experience of consumer advocates and thus has a better chance of success in obtaining redress.

One way to encourage collective legal actions that could be considered by AMS is allowing consumer associations to use at least some parts of the winning award monies to cover their litigation costs (e.g. court fees, lawyer fees, product tests, etc) or conduct further activities that benefit consumers. Another is to consider the adoption of punitive damages, i.e. allowing the courts to grant awards to compensate consumers in excess of their provable injuries, because the relevant business conduct is considered especially harmful or malicious.

4. Resources and Capacity Constraints

Last but not least, resource constraint is another problem affecting the effectiveness of the consumer dispute resolution and redress systems mentioned in many country reports. Each consumer protection regime only has a limited quantity of resources available to them and that has to be judiciously allocated between a variety of functions including dispute settlement. On the other hand, to ensure the accessibility and effectiveness of the redress system, huge investments are required, not only in terms of office space, operational facilities and equipments, website, database and other technologies, etc but also the human resources to run and maintain it. This is set against the backdrop that those dispute resolution systems may not get fully utilized by consumers right at the beginning. A vicious circle is thus formed, where dispute resolution bodies have to show that they effective and successful to deserve more budget allocation and more personnel, but at the same time more budget and more people are needed in order to make the system run more smoothly. And since filing fees for consumer claims have to be kept low and affordable so as to encourage consumers to use the system, revenue from this source would hardly be sufficient to cover the operational costs of the dispute resolution and redress system.

Besides, except in those AMS with a longer tracked record of implementing consumer protection laws such as Malaysia, Thailand, Indonesia and the Philippines, the consumer protection systems in general in other AMS are relatively young. Lack of expertise and experience, therefore, is common in many agencies, affecting their capability to receive and handle consumer complaints effectively.

IV. INTERNATIONAL EXPERIENCES

Ensuring an accessible, effective and fair dispute resolution and redress system for consumers is not a challenge that is unique only to ASEAN and its Member States, but one faced by a large number of countries all over the world. As the global economy enters a new era of digitalization which challenges traditional notions of retail and consumption habits, there is a need for any well-functioning consumer protection regime to stay relevant and evolve with the ever-changing landscape. This section briefly introduces some international instruments available on this topic, as well as recommended practices with regards to consumer protection in e-commerce and online dispute resolution, for AMS to use as benchmark/guidance in improving their own respective dispute settlement systems.

1. United Nations Guidelines on Consumer Protection (UNGCP)

The United Nations Guidelines for Consumer Protection (UNGCP)²⁰ recognize the 'availability of effective consumer dispute resolution and redress' as a legitimate need of consumers all over the world that Member States and the US intend to meet. The Guidelines include the following principles relating to consumer redress mechanisms:

- i) Mechanisms should be fair, effective, transparent, and impartial. There should be legal and/or administrative measures to enable consumers or, as appropriate, relevant organizations to obtain redress through formal or informal procedures that are expeditious, fair, transparent, inexpensive, and accessible. Such procedures should take account of the needs of vulnerable and disadvantaged consumers. Member States should provide consumers with access to remedies that do not impose a cost, delay or undue burden on the economic value at stake and at the same time do not impose excessive or undue burdens on society and businesses.
- ii) Voluntary mechanisms, including advisory services and informal complaints procedures, which can provide assistance to consumers, should be encouraged.
- iii) Information on available redress and other dispute-resolving procedures should be made available to consumers. Access to dispute resolution and redress mechanisms, including alternative dispute resolution, should be enhanced, particularly in cross-border disputes.
- iv) Collective resolution procedures should be expeditious, transparent, fair, inexpensive, and accessible to both consumers and businesses.
- v) Countries should cooperate with businesses and consumer groups in furthering consumer and business understanding of how to avoid disputes, of dispute resolution and redress mechanisms available to consumers and of where consumers can file complaints.

2. OECD Recommendation on Consumer Dispute Resolution & Redress

The OECD Recommendation²¹ covers a number of dispute resolution mechanisms such as mechanisms for consumers acting individually, consumers who are acting collectively, mechanism in case consumer protection agencies are facilitating redress on behalf of consumers, and cross-border consumer disputes.

With respect to mechanisms for consumers who are acting individually, the OECD Recommendation emphasizes on the need to ensure that: a) the mechanisms are accessible; b) they should not impose cost that is disproportionate to the value of the claim; c) consumers are provided information regarding the procedures; d) the mechanisms are designed in such a way that they may be used by the consumers with minimal additional help; e) special needs of disadvantaged or vulnerable consumers should be considered. In addition, the use of alternative dispute resolution mechanisms or simplified court procedures is recommended in such cases.

With respect to mechanisms for consumers who are acting collectively, the OECD Recommendation emphasizes that there must be an available mechanism for collective action. It stresses that such mechanisms should ensure that consumers are given adequate information so that, depending on the type of mechanism being employed, they may opt-in or opt-out of the case.

²⁰ <https://unctad.org/system/files/official-document/ditccplpmisc2016d1_en.pdf>

²¹ <<https://www.oecd.org/sti/ieconomy/38960101.pdf>>

The OECD also recommends that consumer protection enforcement authorities should have the ability to take action and obtain redress for consumers through court actions or be given the ability to act as representative party in lawsuits seeking redress.

In the case of cross-border disputes, the OECD recommends that:

- a) information should be made available to consumers as regards the availability of such mechanisms;
- b) countries should participate, if possible, in international regional consumer complaint, advice and referral networks;
- c) it is important to expand awareness of the justice system participants as to the needs of foreign consumers;
- d) countries should encourage greater use of technology;
- e) countries should minimize legal barriers; and
- f) countries should develop multi-lateral and bi-lateral arrangements to improve international judicial cooperation.

3. OECD Recommendation on Consumer Protection in E-commerce

The OECD Recommendation on Consumer Protection in E-commerce²² also devotes significant attention to the subject of dispute resolution and redress, albeit in the context of electronic commerce. Specifically, it recommends that:

- a. **Transparent and Effective Protection:** Consumers who participate in e-commerce should be afforded transparent and effective consumer protection that is not less than the level of protection afforded in other forms of commerce.²³
- b. **Fair Business, Advertising and Marketing Practices:** Businesses engaged in e-commerce should pay due regard to the interests of consumers and act in accordance with fair business, advertising and marketing practices as well as the general principle of good faith.²⁴
- c. **Transparency and Disclosure:** Online disclosures should be clear, accurate, easily accessible and conspicuous so that consumers have information sufficient to make an informed decision regarding a transaction. Such disclosures should be made in plain and easy-to-understand language, at a relevant time, and in a manner that enables consumers to retain a complete, accurate and durable record of such information.²⁵ Businesses engaged in e-commerce with consumers should also make readily available information about themselves that is sufficient to allow, at a minimum: i) identification of the business; ii) prompt, easy and effective consumer communication with the business; iii) appropriate and effective resolution of any disputes that may arise; iv) service of legal process in domestic and cross-border disputes; and v) location of the business.²⁶
- d. **Dispute Resolution and Redress:** Consumers should be provided with meaningful access to fair, easy-to-use, transparent and effective mechanisms to resolve domestic and cross-border e-commerce disputes in a timely manner and obtain redress, as appropriate, without incurring unnecessary cost or burden. These should include out-of-court mechanisms, such as internal complaints handling and ADR. Subject to applicable law, the use of such out-of-court mechanisms should not prevent consumers from pursuing other forms of dispute resolution and redress.²⁷ In particular:²⁸
 - i. **Internal complaints handling:** The development by businesses of internal complaints handling mechanisms, which enable consumers to informally resolve their complaints directly with businesses, at the earliest possible stage, without charge, should be encouraged.
 - ii. **ADR:** Consumers should have access to ADR mechanisms, including online dispute resolution systems, to facilitate the resolution of claims over e-commerce transactions, with special attention to low value or cross-border transactions. Although such mechanisms may be financially supported in a variety of ways, they should be designed to provide dispute resolution on an objective, impartial, and consistent basis, with individual outcomes independent of influence by those providing financial or other support.

²² <<https://www.oecd.org/sti/consumer/ECommerce-Recommendation-2016.pdf>>

²³ Recommendation A of the OECD Recommendation.

²⁴ Recommendation B.3 of the OECD Recommendation.

²⁵ Recommendation C.25 of the OECD Recommendation.

²⁶ Recommendation C.28 of the OECD Recommendation.

²⁷ Recommendation F.43 of the OECD Recommendation.

²⁸ Recommendations F.44 to F.46 of the OECD Recommendation.

- iii. **Redress:** Businesses should provide redress to consumers for the harm that they suffer as a consequence of goods or services which, for example, are defective, damage their devices, do not meet advertised quality criteria or where there have been delivery problems. Governments and stakeholders should consider how to provide redress to consumers in appropriate circumstances involving non-monetary transactions.
- e. **Education, Awareness and Digital Competence:** Governments and stakeholders should work together to educate consumers, government officials and businesses about e-commerce to foster informed decision-making. They should work towards increasing business and consumer awareness of the consumer protection framework that applies to their online activities, including their respective rights and obligations, at domestic and cross-border levels.
- f. **Principles of Implementation:** Governments should cooperate with stakeholder in working towards improving the evidence base for e-commerce policy making through collecting consumer complaints, surveys and conducting other empirical research. They should also review and, if necessary, adopt and adapt laws protecting consumers in e-commerce, having in mind the principle of technology neutrality.²⁹

4. Experiences of the European Union (EU) on ODR

The European Union (EU) is amongst the jurisdictions which are pioneering with online dispute resolution. EU Regulation No. 524/2013³⁰ provides for a European ODR platform that applies to the out-of-court resolution of disputes stemming from online sales or service contracts. The ODR platform is meant to be a single point of entry for consumers and traders, in the form of an interactive website that can be accessed electronically and free of charge in all languages of the European Union.

Among the key functions of the platform are:

- An electronic complaint form to be filled in by the complainant;
- A means to identify ADR entities competent to handle the dispute to whom the complaint can be transmitted; and
- An electronic case management tool, free of charge, that enables the parties and the ADR entity to conduct dispute resolution procedures online.

On this platform, an ADR entity which has agreed to deal with a dispute should not require the physical presence of the parties or their representatives unless its procedural rules provide for that possibility and the parties agree.

At the same time, the EU Directive on Consumer ADR (Directive 2013/11/EU)³¹ establishes that any properly functioning dispute resolution entities that comply with the quality requirements set out in the directive should be considered as “ADR entities”. It is also recognized that “the availability of quality ADR entities across the Union is [a] precondition for the proper functioning of the ODR platform”.

The European Union model is thus one where ADR proceedings are to be provided by duly accredited ADR entities, with the ODR platform serving as a means of connecting the disputing parties with the ADR entities as well as the platform for the conduct of dispute resolution proceedings within each Member State as well as across borders. By ‘facilitating the independent, impartial, transparent, effective, fast and fair out-of-court resolution of disputes between consumers and traders online’ across the region, the ODR platform would help to boost consumer confidence and promote the integration and development of the Single Market. At present, the European Union website lists a total of 417 dispute resolution bodies operating within its jurisdiction, that all offer out-of-court settlement procedures and that all have been approved for quality standards relating to fairness, efficiency, and accessibility.

²⁹ Recommendation 53 of the OECD Recommendation.

³⁰ <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R0524&from=EN>>

³¹ <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0011&from=EN>>

V. CONCLUSIONS & RECOMMENDATIONS

In general, throughout the ASEAN region, consumer dispute resolution and redress systems are being gradually established and developed. All AMS have got some different combinations of courts-based and out-of-court mechanisms in place, including complaints-handling units within businesses, ADR/ODR options, individual and collective legal actions, and actions by consumer protection agencies and consumer associations. There are, however, significant differences amongst countries, ranging from the legal framework and procedures to institutional set-up and mandates. Furthermore, several gaps still exist, most importantly with regards to consumer awareness and assertiveness, resource and capacity constraints, as well as the remaining absence of rules-based instruments to address e-commerce and cross-border disputes.

To address these gaps/challenges and improve the overall accessibility and effectiveness of consumer dispute resolution and redress systems in ASEAN, based on the aforementioned international experiences, we offer the following recommendations (in no particular order of priority):

1. Step up **information dissemination, consumer education and awareness-raising** activities throughout ASEAN: In addition to general knowledge about consumer rights and business obligations, consumers must be familiarized with available redress options, what the different options entail and how to choose the most suitable options for their disputes;
2. Continue **training and capacity building** for officers and/or staff members of consumer protection agencies on relevant law and regulations, thematic topics of consumer protection, as well as complaint-handling techniques, including soft skills used in counseling and mediation;
3. Encourage **businesses to establish internal units/sections** for addressing consumer complaints/enquiries as well as standardized operating procedures for such units and relevant personnel;
4. Promote **representative actions by consumer associations** to obtain redress for a large class of consumers who have each suffered from similar harms caused by the same violating business;
5. **Support and facilitate other works by consumer associations**, including the provision of legal advice and assistance in negotiating with businesses, as well as legal representation at courts where necessary;
6. **Update the legal framework** in each AMS to adequately cover emerging issues related to the **digital economy and e-commerce**, especially with regards to the use of advanced technologies to exploit and manipulate consumers and the responsibilities/liabilities of large platforms as third-party and/or direct provider of goods and services. In the long run, to promote **aligning of approaches** or more **convergence/harmonization amongst various national legal frameworks** to enable consumers in ASEAN to obtain redress across borders more easily and effectively;
7. Encourage the conclusion of bilateral and/or regional cooperative agreements/ arrangements such as **memoranda of understanding or agreed minutes amongst consumer protection agencies in ASEAN for resolving cross-border disputes/complaints** with regards to concrete issues such as case referral, joint and assisted investigation, mutual recognition and enforcement of decisions/outcomes, etc;
8. **Expand the scope for governmental agencies to take actions** against fraudulent and deceptive business practices affecting a large number of consumers in the market, to impose suitable penalties as well as to order for monetary redress on behalf of consumers;
9. Consider the **adoption of punitive damages** to deter extremely harmful and malicious business practices which can cause serious damages to consumers at large; and
10. **Develop ODR systems** in each AMS and/or an **ASEAN ODR Platform/Network** linking all accredited ADR entities, businesses and consumers in the region for conducting out-of-court dispute resolution proceedings. The ACCP's regional complaint-handling mechanism should be activated soon, with clear SOP and public notice, to allow learning by doing and enable the accumulation of experiences. In the future, **the ACCP website** could become the **central node** through which national ODR systems in the AMS are interlinked.³²

³² ASEAN Guidelines on Online Dispute Resolution.

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ANNEX

Country Factsheets



Regional Study on Needs and Gaps of Consumer Dispute Resolution in ASEAN: BRUNEI DARUSSALAM

 KEY DATA	 DISPUTE RESOLUTION MECHANISMS	 REDRESS OPTIONS
<p>Law and Regulations Consumer Protection (Fair Trading) Order (CPFTO), 2011</p> <hr/> <p>Main Agency Department of Consumer Affairs (DCA), Department of Economic Planning and Statistics (DEPS), Ministry of Finance and Economy</p> <hr/> <p>Consumer Right to Redress Recognized by Law</p> <p style="text-align: center;"></p>	<p>Legal Action through Courts Small claims tribunal is available</p> <p style="text-align: center;"></p> <hr/> <p>Alternative Dispute Resolution (ADR) Mediation and Arbitration by Brunei Darussalam Arbitration Centre (BDAC)</p> <hr/> <p>(Elements of) Online Dispute Resolution (ODR)</p> <p>Consumer complaint can be lodged via email or the SmartConsumer mobile application</p>	<p>Compensation/Remedies Compensation for consumers based on court decision/ judgements</p> <hr/> <p>Class Action/ Collective Redress Under the Small Claims Tribunals Order, 2006</p> <p style="text-align: center;"></p> <hr/> <p>Punitive Damages</p> <p style="text-align: center;"></p>

more than **1,100** complaints

Since 2012, more than 1,000 consumer complaints have been received through official channels including consumer hotline, SmartConsumer mobile app and email.

over **93%** complaints settled

Over 93% of the total complaints received since 2012 are resolved



MAJOR NEEDS AND GAPS

Institutional Setting
Consumers lack the understanding about how to proactively address and resolve disputes with businesses.

Resources and Capacities
Consumer protection agency possesses limited trained human resources to effectively implement consumer protection works.










Redress Mechanism

- The absence of a fast-track court procedure for small claims and high court fees discourages consumers to settle their case in court.
- No specialized mechanisms are available to address sectoral complaints.

 LEGAL COUNSEL AND REPRESENTATION BY CONSUMER ASSOCIATIONS	 RECOMMENDATIONS
<p>There is currently no consumer association in Brunei Darussalam.</p>	<ul style="list-style-type: none"> • Increase inter-agency and cross-sectoral coordination, e.g. by introducing or institutionalizing a referral procedure from DCA to sectoral authorities. • Develop consumer education programmes and tools to increase consumer awareness and knowledge related to dispute settlement.



Regional Study on Needs and Gaps of Consumer Dispute Resolution in ASEAN: CAMBODIA

 KEY DATA	 DISPUTE RESOLUTION MECHANISMS	 REDRESS OPTIONS
<p>Law and Regulations Law on Consumer Protection 2019</p> <hr/> <p>Main Agency Consumer Protection Competition and Fraud Repression Directorate-General (CCF), Ministry of Commerce</p> <hr/> <p>Consumer Right to Redress Recognized by Law</p> <p style="text-align: center;"></p>	<p>Legal Action through Courts Small claims court is available through Code of Civil Procedures 2006</p> <p style="text-align: center;"></p> <hr/> <p>Alternative Dispute Resolution (ADR)</p> <p style="text-align: center;"></p> <hr/> <p>(Elements of) Online Dispute Resolution (ODR)</p> <p style="text-align: center;"></p>	<p>Compensation/Remedies</p> <ul style="list-style-type: none"> • Compensation for consumers based on court decision/ judgements • Administrative measures: written warning, suspension, cancellations of certification of registration, obstruction penalty, provisional fine, etc. <hr/> <p>Class Action/ Collective Redress Recognized under Cambodian civil code procedure</p> <p style="text-align: center;"></p> <hr/> <p>Punitive Damages</p> <p style="text-align: center;"></p>

more than **15** complaints

CCF starts to record of complaint data after standard operation procedure of Complaint Handling has been formed. In 2021, CCF received 18 complaints where 10, 2 and 8 complaints resolved, send to court and pending respectively.

complaints **38%** settled

7 out of 18 complaints received are settled (38.88% settlement rate); the rest is still under process of investigation and settlement.

MAJOR NEEDS AND GAPS

Consumer Awareness and Assertiveness
Consumers lack the understanding about how to proactively address and resolve disputes with businesses.

Redress Mechanism







- The general consumer redress mechanisms under the Law on Consumer Protection and led by CCF and NCCP are still in an infant stage.
- ADR and sectoral mechanisms have yet to be set up and mediation skills built, particularly at the local level.

Effectiveness
No mechanism is in place to evaluate the existing dispute settlement procedures for consumers.

 LEGAL COUNSEL AND REPRESENTATION BY CONSUMER ASSOCIATIONS	 RECOMMENDATIONS
<p>The first consumer association in Cambodia is in the process of being formalized, in accordance with the Law on Consumer Protection which accords consumers in each sector the right to form their own associations and register them with the Ministry of Interior.</p>	<ul style="list-style-type: none"> • Adopt the relevant regulations on consumer redress for general consumers, particularly clarifying procedural steps. • Monitor initial experiences of consumers with the existing system and consider the introduction of additional mechanisms or tools, including for ADR and ODR. • Develop consumer education programmes and campaign to increase consumer awareness and empowerment so that they understand their rights and how to assert them. • Encourage businesses to comply with the Law on Consumer Protection and to promote doing business with ethics and integrity.



Regional Study on Needs and Gaps of Consumer Dispute Resolution in ASEAN: INDONESIA

 KEY DATA	 DISPUTE RESOLUTION MECHANISMS	 REDRESS OPTIONS
<p>Law and Regulations Law No. 8/1999 on Consumer Protection</p> <hr/> <p>Main Agency Directorate of Consumer Empowerment (DCE), Ministry of Trade</p> <hr/> <p>Consumer Right to Redress Recognized by Law</p> <p></p>	<p>Legal Action through Courts Small claim court is available</p> <hr/> <p>Alternative Dispute Resolution (ADR)</p> <ul style="list-style-type: none"> Mediation, arbitration and/or conciliation by Consumer Dispute Settlement Body (BPSK) available in provincial/ municipal levels Mediation and arbitration by sectoral public authorities (e.g. financial sector through Alternative Institutions for Dispute Resolution in the Financial Services Sector (LAPS SJK)) <hr/> <p>(Elements of) Online Dispute Resolution (ODR)</p> <p>Online portal for filing, tracking, and resolving complaints: SIMPKTN by Ministry of Trade, and APPK by OJK.</p>	<p>Compensation/Remedies</p> <ul style="list-style-type: none"> Compensation for consumers based on an agreement between consumers and business Administrative measures: monetary fines <hr/> <p>Class Action/ Collective Redress</p> <p>Collective action through a judicial mechanism</p> <p></p> <hr/> <p>Punitive Damages</p> <p></p>

more than **13,200** complaints

Ministry of Trade received 13.205. Most Complaints are ecommerce, financial services, transportation, food and pharmaceutical, electronics, etc.

99% complaints settled

13,130 out of 13,205 complaints received are settled (99,4% settlement rate); the rest is still under process of settlement.

MAJOR NEEDS AND GAPS

Resources and Capacities
Constraints of local BPSK to effectively deal with new issues.

Accessibility
In order to implement the function as advisory body, BPKN also receives complaints to provide recommendations to the Government.









Redress Mechanism
The BPSK mechanism relies on the good will of the disputing parties; the execution of decisions requires court orders.

Consumer Awareness and Assertiveness
Consumers lack the understanding about how to proactively address and resolve disputes with businesses.

 LEGAL COUNSEL AND REPRESENTATION BY CONSUMER ASSOCIATIONS	 RECOMMENDATIONS
<ul style="list-style-type: none"> Four main registered consumer organizations in Indonesia, with the first three also being members of Consumers International: Indonesia Consumer Association (YLKI), Institute for Consumer Development and Protection (LP2K), Yogyakarta Consumer Institute (LKY), along with other local consumer associations. Consumer associations can receive complaints for referral to government agencies, as well as assist and represent their members and general consumers in disputes 	<ul style="list-style-type: none"> Establish an ODR system and consider for it to be a one-stop platform that also allows for referral to different responsible entities. Increase the number of BPSK offices, build capacities, streamline procedures and introduce competency standards to achieve a higher level of professionalism and public trust in dispute resolution at the local level.



Regional Study on Needs and Gaps of Consumer Dispute Resolution in ASEAN: LAO PDR

 KEY DATA	 DISPUTE RESOLUTION MECHANISMS	 REDRESS OPTIONS
<p>Law and Regulations</p> <p>Law on Consumer Protection 2010</p> <hr/> <p>Main Agency</p> <p>Department of Internal Trade (DIT), Ministry of Industry and Commerce</p> <hr/> <p>Consumer Right to Redress Recognized by Law</p> <p style="text-align: center;"></p>	<p>Legal Action through Courts</p> <ul style="list-style-type: none"> No special or separate procedure or tribunal for consumer cases No small-claims court <p style="text-align: center;"></p> <hr/> <p>Alternative Dispute Resolution (ADR)</p> <p>Mediation is conducted by:</p> <ul style="list-style-type: none"> Consumer protection responsible agencies of government Dispute Resolution Committee of Villages' Administration Offices Organization of Economic Disputes Settlement under the Ministry of Justice <hr/> <p>(Elements of) Online Dispute Resolution (ODR)</p> <p style="text-align: center;"></p>	<p>Compensation/Remedies</p> <ul style="list-style-type: none"> Compensation for consumers based on court decision/ judgements Administrative measures: re-education, discipline, fine, civil or penal. <hr/> <p>Class Action/ Collective Redress</p> <p>Permissible by Consumer Protection Law 2010</p> <p style="text-align: center;"></p> <hr/> <p>Punitive Damages</p> <p style="text-align: center;"></p>

more than **530** complaints

From 2019 to June 2022, 1510 Hotline Statistic received 537 complaints.

complaints **83%** settled

445 out of 537 complaints from 2019 to 2022 have been settled; with the settlement rate of 83%.

MAJOR NEEDS AND GAPS

Redress Mechanism



Many businesses are not equipped with complaints handling desks.

Resource and Capacities

Consumer protection authorities lack human resources and capacities to facilitate the settlement of disputes.








Institutional Setting

- Interagency and cross-sectoral coordination is weak.
- Some relevant agencies have ineffective mechanisms in settling (sectoral) consumer disputes.

 LEGAL COUNSEL AND REPRESENTATION BY CONSUMER ASSOCIATIONS	 RECOMMENDATIONS
<p>There is currently no consumer association in Laos yet. However, the Law already provides for the role and duties, rights and obligations of consumer associations. Further details were issued in a decree in 2020.</p>	<ul style="list-style-type: none"> Streamline coordination among responsible agencies and ensure the existence and implementation of redress mechanisms in respective agencies; in parallel, build capacities. Encourage the establishment of internal dispute resolution mechanism for businesses. Establish small claim courts and ADR mechanisms. Establish consumer protection association. Conduct public campaigns to educate consumers about their rights and how to enforce them.



Regional Study on Needs and Gaps of Consumer Dispute Resolution in ASEAN: MALAYSIA

 KEY DATA	 DISPUTE RESOLUTION MECHANISMS	 REDRESS OPTIONS
<p>Law and Regulations</p> <ul style="list-style-type: none"> The Consumer Protection Act (CPA) of 1999 Consumer Protection (The Tribunal for Consumer Claims) Regulations (Amendment) 2022 <hr/> <p>Main Agency</p> <p>Ministry of Domestic Trade and Cost of Living (MDT)</p> <hr/> <p>Consumer Right to Redress Recognized by Law</p> <p></p>	<p>Legal Action through Courts</p> <ul style="list-style-type: none"> Special tribunals for consumer cases available Small claims court available <p></p> <hr/> <p>Alternative Dispute Resolution (ADR)</p> <p>Mediation by MDTCA through Tribunal Consumer Claim of Malaysia (TCCM)</p> <hr/> <p>(Elements of) Online Dispute Resolution (ODR)</p> <ul style="list-style-type: none"> Online portal for filing, tracking, and resolving complaints (https://e-aduan.kpdnhep.gov.my) Consumer seeking redress can file claims through e-Tribunal system at https://tprm.kpdnhep.gov.my 	<p>Compensation/Remedies</p> <ul style="list-style-type: none"> Compensation for consumers based on court decision / judgements Award determined by TCCM Administrative measures: Refund, compensation, replacement, resupplied, repair, comply with guarantee, interest be paid on any sum or monetary award, contract be varied or set aside, wholly or in part; costs to or against any party be paid <hr/> <p>Class Action/ Collective Redress</p> <p></p> <hr/> <p>Punitive Damages</p> <p></p>

more than **25,000** complaints

27,469 total complain received for 2021



complaints **97,37%** settled

97.37% complaints settled

MAJOR NEEDS AND GAPS








Enforcement

Only the court that has the power to enforce the award. The other procedures are not given the authority in law enforcement, despite the final and binding awards (under the Section 117, Act 599, as arrest may be made for any failure to comply with an award made by TCCM).

 LEGAL COUNSEL AND REPRESENTATION BY CONSUMER ASSOCIATIONS	 RECOMMENDATIONS
<ul style="list-style-type: none"> Among prominent consumer associations in Malaysia are the Federation of Consumer Association Malaysia (FOMCA) and Consumer Association Penang; the majority use online media centers to collect and disseminate information on consumer rights and campaigns. Consumer associations also play a critical role to hear consumer complaints and provide necessary advice for possible solutions, in some cases even across jurisdictions (Singapore/Malaysia). 	<p>Increase monitoring and evaluation programmes to assess and improve existing redress mechanisms.</p>



Regional Study on Needs and Gaps of Consumer Dispute Resolution in ASEAN: MYANMAR

 KEY DATA	 DISPUTE RESOLUTION MECHANISMS	 REDRESS OPTIONS
<p>Law and Regulations Consumer Protection Law 2019</p> <hr/> <p>Main Agency</p> <ul style="list-style-type: none"> Myanmar Consumer Protection Commission (MCPC) Department of Consumer Affairs (DOCA), Ministry of Commerce <hr/> <p>Consumer Right to Redress Recognized by Law</p> <p style="text-align: center;"></p>	<p>Legal Action through Courts</p> <ul style="list-style-type: none"> No special or separate procedure or tribunal for consumer cases No small-claims court <hr/> <p>Alternative Dispute Resolution (ADR) Mediation by DOCA</p> <hr/> <p>(Elements of) Online Dispute Resolution (ODR) Mobile app and website for complaints-filing only</p> <p style="text-align: center;"></p>	<p>Compensation/Remedies</p> <ul style="list-style-type: none"> Compensation for consumers based on court decision/judgements Administrative measures (e.g. cease-and-desist orders, monetary fines, withdrawal of business licenses) <hr/> <p>Class Action/ Collective Redress Allowed through Class Suit</p> <p style="text-align: center;"></p> <hr/> <p>Punitive Damages</p> <p style="text-align: center;"></p>

more than 3,700 complaints

From 2017 to July 2022, DOCA received 3,761 consumer complaints. Most complaints are related to Telecom Services

98% complaints settled

3689 out of 3761 complaints received have been settled (98% settlement rate). The rest of the complaints are in the process of settling

MAJOR NEEDS AND GAPS

Consumer Awareness and Assertiveness



Consumers do not sufficiently understand their legitimate rights and lack the skills to recognize problems, such as scams, misleading advertisements etc.

Legal Procedures and Mandates

DOCA developed standard operational procedures in 2020 that are still pending wider dissemination among the public. Complaints referred to by consumer associations to DOCA and other relevant sectoral government agencies cannot be easily tracked.








Resources and Capacities

Government agencies, particularly local offices, need to be trained to better understand consumer issues as well as remedies according to the law. They also face challenges in tracing fraudulent online sellers.

 LEGAL COUNSEL AND REPRESENTATION BY CONSUMER ASSOCIATIONS	 RECOMMENDATIONS
<ul style="list-style-type: none"> Three registered consumer associations: Myanmar Consumers Union (MCU), Consumer Protection Association Myanmar (CPAM), and Consumer Association Myanmar (CAM). Consumer associations can receive complaints for referral to government agencies and advise consumers on the validity of their claims; they can also assist and represent their members and general consumers in filing complaints. 	<ul style="list-style-type: none"> Regular meetings of the MCPC could promote a more strategic approach to allocating resources, also for strengthening existing consumer redress schemes. Based on the National Consumer Protection Programme (NCPP), completed in early 2021, efforts should be undertaken to build the capacities of government officials and educate consumers. Imposing heavier penalties could help discourage irresponsible businesses, particularly "repeat players".



Regional Study on Needs and Gaps of Consumer Dispute Resolution in ASEAN: THE PHILIPPINES

 KEY DATA	 DISPUTE RESOLUTION MECHANISMS	 REDRESS OPTIONS
<p>Law and Regulations</p> <p>Consumer Act 1992 (Republic Act No. 7394)</p> <hr/> <p>Main Agency</p> <ul style="list-style-type: none"> Department of Health Department of Agriculture Department of Trade and Industry <hr/> <p>Consumer Right to Redress Recognized by Law</p> <p></p>	<p>Legal Action through Courts</p> <ul style="list-style-type: none"> No special or separate procedure or tribunal for consumer cases No small-claims court <p></p> <hr/> <p>Alternative Dispute Resolution (ADR)</p> <ul style="list-style-type: none"> Mediation and adjudication by the DTI Besides DTI, Dept. of Health, and Dept. of Agriculture are equipped with the mandates to receive consumer complaints and conduct investigation accordingly. <hr/> <p>(Elements of) Online Dispute Resolution (ODR)</p> <p>DTI Consumer Complaints Assistance and Resolution (CONSUMER CARE) System as a pilot project was introduced in June 2021</p>	<p>Compensation/Remedies</p> <ul style="list-style-type: none"> Compensation for consumers based on court decision/judgements Administrative measures: cease and desist order; acceptance of a voluntary assurance of compliance or discontinuance from the respondent; restitution or rescission of the contract without damages; condemnation and seizure of the consumer; fines. <hr/> <p>Class Action/Collective Redress</p> <p></p> <hr/> <p>Punitive Damages</p> <p></p>

more than **63,000** complaints

In 2020, DTI received and processed 57,839 consumer complaints, including violations of the Price Act; deceptive, unfair, and unconscionable Sales Acts or Practices; and liability for products and services

99% complaints settled

Of the 15,978 under DTI jurisdiction, 15,858 or 99.19% were resolved. Majority were endorsed to other government agencies for appropriate action.



MAJOR NEEDS AND GAPS

Consumer Awareness and Assertiveness

Consumers have limited knowledge and understanding about which channel they shall resolve their case.








Institutional Setting

- Varying rules of procedure issued by the different bodies; leading to confusion for general consumers.
- The Consumer Act listed three specific Departments, the DTI, DOH, and the DA. The other government agencies may not prescribe to the Consumer Act.

 LEGAL COUNSEL AND REPRESENTATION BY CONSUMER ASSOCIATIONS	 RECOMMENDATIONS
<ul style="list-style-type: none"> There are several prominent consumer organizations in the country, such as IBON Foundation, Laban Konyumer, and Bulacan Consumer Affairs Council. They provide means for public education and information campaigns, as well as participate in the formulation of policies, new laws or amendments of existing consumer laws. 	<ul style="list-style-type: none"> Develop online dispute resolution and pass the Internet Transactions Act. Harmonize relevant laws and regulations on consumer redress. Encourage collective actions to enhance the dispute settlement.



Regional Study on Needs and Gaps of Consumer Dispute Resolution in ASEAN: SINGAPORE

 KEY DATA	 DISPUTE RESOLUTION MECHANISMS	 REDRESS OPTIONS
<p>Law and Regulations Consumer Protection (Fair Trading) Act 2003 (CPFTA)</p> <hr/> <p>Main Agency Competition and Consumer Commission of Singapore (CCCS)</p> <hr/> <p>Consumer Right to Redress Recognized by Law</p> <p style="text-align: center;"></p>	<p>Legal Action through Courts Small Claims Tribunals (SCT) is available</p> <p style="text-align: center;"></p> <hr/> <p>Alternative Dispute Resolution (ADR)</p> <ul style="list-style-type: none"> Mediation by Consumers Association of Singapore (“CASE”) and Singapore Tourism Board (STB), and private mediation service providers. Singapore Mediation Centre (SMC) Financial Industry Disputes Resolution Centre (FIDReC) <hr/> <p>(Elements of) Online Dispute Resolution (ODR)</p> <ul style="list-style-type: none"> Online portal for lodging complaints online via CASE website Online platform for submitting ADR application for consumer-telecommunications and media service provider disputes via SMC’s website. 	<p>Compensation/Remedies</p> <ul style="list-style-type: none"> Compensation for consumers based on court decision/ judgements CCCS can apply to the courts for an injunction to compel suppliers to cease unfair practice. <hr/> <p>Class Action/ Collective Redress</p> <p style="text-align: center;"></p> <hr/> <p>Punitive Damages</p> <p style="text-align: center;"></p>

more than
18,300
complaints

In 2020, a grand total of 18,335 complaints submitted to CASE



filed complaints
70%
settled

Approximately 7 out of 10 consumers who engaged CASE to represent them in their disputes reached a resolution with the suppliers

MAJOR NEEDS AND GAPS








Consumer Awareness and Assertiveness

There is room to raise awareness amongst consumers in Singapore about the ADR mechanisms available to resolve their consumer disputes.

 LEGAL COUNSEL AND REPRESENTATION BY CONSUMER ASSOCIATIONS	 RECOMMENDATIONS
<p>CASE has signed several memoranda of understanding (“MOU”) with China, India, United Kingdom, Hong Kong, Taiwan, Malaysia, Korea, Macau and Japan allowing consumers in Singapore to lodge a complaint against a trader located in any of the MOU countries, so that CASE’s counterpart in the relevant foreign country will be able to assist the consumer in Singapore to negotiate with the trader, and vice versa.</p>	<ul style="list-style-type: none"> Increase consumer awareness of the available methods of recourse for consumer disputes. Set up a definitive consumer disputes information webpage which clearly addresses a consumer’s options for resolving his or her claim, explains each option, and outlines clear steps on the relevant procedures. Develop a more comprehensive system of ODR for consumer complaints and disputes. For CASE: to continue developing its system of MOUs in order to extend the framework to other countries.



Regional Study on Needs and Gaps of Consumer Dispute Resolution in ASEAN: THAILAND

 KEY DATA	 DISPUTE RESOLUTION MECHANISMS	 REDRESS OPTIONS
<p>Law and Regulations Consumer Protection Act 1979</p> <hr/> <p>Main Agency Office of the Consumer Protection Board (OCPB)</p> <hr/> <p>Consumer Right to Redress Recognized by Law</p> <p></p>	<p>Legal Action through Courts "Consumer Court" is available in the Court of Justice to file a 'consumer case'.</p> <p></p> <p>Alternative Dispute Resolution (ADR)</p> <ul style="list-style-type: none"> E-mediation, Mediation and Conciliation by OCPB E-Mediation and E-Negotiation by Thai Arbitration Center's Talk DD platform Mediate before lawsuit in online purchasing case by the Court of Justice <p>(Elements of) Online Dispute Resolution (ODR)</p> <p>OCPB Online Dispute Resolution (ODR) completed since 2019 via "OCPB Connect" at https://ocpbconnect.ocpb.go.th/</p>	<p>Compensation/Remedies</p> <ul style="list-style-type: none"> Compensation for consumers based on the resolution of the Consumer Protection Board / court decision / judgements Administrative measures: fines <p>Class Action/ Collective Redress Permissible after the amendment of the Civil Procedure Code in 2015</p> <p></p> <p>Punitive Damages</p> <p></p> <p>OCPB has regulations requiring the business operators to pay punitive damages under the Consumer Case Procedure Act 2008 (Article 42), and always pursued punitive damage claims.</p>

more than **23,800** complaints

In 2020, OCPB received and processed 23,833 consumer complaints under the Consumer Protection Law, the Direct sales and direct marketing law, the Product Liability Law and the Online purchasing under related law.

complaints **85%** settled

OCPB was able to resolve 20,308 cases or 85.21% by our dispute resolution process both online and offline and prosecute instead of consumers.

MAJOR NEEDS AND GAPS



- Enforcement**
- Enforcement of the law under the responsibility of some government authorities is limited to regulating the behaviors of business operators and sanctioning in case of law violation.
 - Compensation to the injured consumers is not incorporated in some laws except it obviously identified in the Consumer Protection Act, the Direct Sales and direct marketing Act, the Product Liability Act, and the Consumer Case Procedure Act.

Legal Framework

Lack in number and frequent resignation of human resources lead to less effective and responsive dispute settlement by OCPB








Institutional Setting

Weak cross-sectoral and interagency coordination for dispute settlement.

 LEGAL COUNSEL AND REPRESENTATION BY CONSUMER ASSOCIATIONS	 RECOMMENDATIONS
<ul style="list-style-type: none"> The Foundation for Consumers (FFC) is the main leading consumer organization in Thailand. FFC also established a Complaints and Legal Assistance Center in 1994. FFC receives complaints from consumers and relay them to the mass media in particular through the weekly one-hour television programme called Consumers Assembly. The new Thai Consumer Council (TCC) offers opportunities for more systematic engagement between consumer associations and the government. 	<ul style="list-style-type: none"> Develop advocacy projects and assistance to consumers to raise consumer awareness of their right to redress.



Regional Study on Needs and Gaps of Consumer Dispute Resolution in ASEAN: VIETNAM

 KEY DATA	 DISPUTE RESOLUTION MECHANISMS	 REDRESS OPTIONS
<p>Law and Regulations Law on Protection of Consumer Rights 2010</p> <hr/> <p>Main Agency Viet Nam Competition and Consumer Protection Authority (VCCA), Ministry of Trade and Industry</p> <hr/> <p>Consumer Right to Redress Recognized by Law</p> <p style="text-align: center;"></p>	<p>Legal Action through Courts</p> <ul style="list-style-type: none"> Special tribunals for consumer cases available Small claims court available <p style="text-align: center;"></p> <hr/> <p>Alternative Dispute Resolution (ADR) Mediation, arbitration and administrative measures by VCCA</p> <hr/> <p>(Elements of) Online Dispute Resolution (ODR) Online portal and mobile app for filing, tracking, and resolving complaints (www.bvntd.org.vn)</p>	<p>Compensation/Remedies</p> <ul style="list-style-type: none"> Compensation for consumers based on court decision/judgements Administrative measures: cease-and-desist orders, monetary fines, withdrawal of business licenses etc. <hr/> <p>Class Action/ Collective Redress Permissible by law for registered consumer associations</p> <p style="text-align: center;"></p> <hr/> <p>Punitive Damages</p> <p style="text-align: center;"></p>

more than **1,500** complaints

Around 1,500 consumer complaints on average annually received by VCCA (2014-2020), with 80-85% settlement rate.

80% settled

10,475 complaints in 2011-2017 and close to 13,300 complaints (2017-2018) received by consumer associations, with more than 80% settlement rate.

MAJOR NEEDS AND GAPS

Consumer Awareness and Assertiveness

Consumers lack the understanding about how to proactively address and resolve disputes with businesses.

Legal Framework

The absence of a fast-track court procedure for small claims means that consumers are often discouraged by potential bureaucracy and/or high court fees. No specialized dispute resolution mechanisms for e-commerce and regulated sectors, such as financial services, telecommunications, aviation etc.

Resources and Capacities

Relevant government agencies and consumer associations lack human and financial resources to effectively handle a larger number of consumer complaints.

Accessibility

The existing system remains largely inaccessible to consumers, particularly in rural and remote areas.

 LEGAL COUNSEL AND REPRESENTATION BY CONSUMER ASSOCIATIONS	 RECOMMENDATIONS
<ul style="list-style-type: none"> Presence of "social organizations" for more than 20 years; Vietnam Consumer Protection Organization (VICOPRO) and local consumer organizations in 55/63 provinces, along with affiliate clubs and centers. Accredited consumer associations can provide legal advice, mediate in consumer disputes and engage in representative actions at civil courts. However, limitations exist with respect to receiving awards in class actions. 	<ul style="list-style-type: none"> The new online consumer portal of the VCCA interlinks different parties in a dispute and provides an opportunity to increase consumer access to redress across the country. However, it is still necessary to set up or strengthen (additional) offline mechanisms for dispute resolution, as well as amplify the role of consumer associations. Addressing these issues should be a consideration for the upcoming amendment of the 2010 consumer protection law.

