



ASEAN Peer Review on Consumer Protection

THE PHILIPPINES

External Peer Review Report

Prepared by:

Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, through the “Consumer Protection in ASEAN” (PROTECT) Project, upon commission of the German Federal Ministry of Economic Cooperation and Development (BMZ)



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Abbreviations

| | |
|-------------|--|
| ACCEC | ASEAN Coordinating Committee on E-Commerce |
| ACCP | ASEAN Committee on Consumer Protection |
| ACCSQ | ASEAN Coordinating Committee on Standards and Quality |
| ACEI | ASEAN Consumer Empowerment Index |
| ADR | Alternative Dispute Resolution |
| AEC | ASEAN Economic Community |
| AEGC | ASEAN Experts Group on Competition |
| AHLP | ASEAN High-Level Principles on Consumer Protection |
| AMS | ASEAN Member States |
| ASAPCP | ASEAN Strategic Action Plan on Consumer Protection |
| ASEAN | Association of Southeast Asian Nations |
| ASEC | ASEAN Secretariat |
| BPS | Bureau of Philippine Standards |
| CAP | Consumer Act of the Philippines |
| CAR | Country Assessment Report |
| CPAB | Consumer Policy and Advocacy Bureau |
| CPG | Consumer Protection Group |
| DAO | Department Administrative Order |
| DTI | Department of Trade and Industry, Philippines |
| EU | European Union |
| EPR | External Peer Review Report |
| FTEB | Fair Trade Enforcement Bureau |
| GDP | Gross Domestic Product |
| GDPR | General Data Protection Regulation |
| GIZ | Deutsche Gesellschaft für Internationale Zusammenarbeit |
| ICPEN | International Consumer Protection Enforcers Network |
| IGE | Intergovernmental Group of Experts |
| ISO COPOLCO | Committee on Consumer Policy, International Standards Organization |
| MDTCA | Ministry of Domestic Trade and Consumer Affairs, Malaysia |
| NCAC | National Consumer Affairs Council |
| ODR | Online Dispute Resolution |
| OECD | Organisation for Economic Cooperation and Development |
| PODRS | Philippine Online Dispute Resolution System |
| PRA | Philippine Retailers Association |
| PRT | Peer Review Team |
| ROG | Regional Operations Group |
| SAQ | Self-Assessment Questionnaire |
| SRP | Suggested Retail Price |
| TWG | Technical Working Group |
| UNCTAD | United Nations Conference on Trade and Development |
| UNGCP | United Nations Guidelines on Consumer Protection |
| VCCA | Viet Nam Competition and Consumer Authority |

Executive Summary

Under the ASEAN Strategic Action Plan on Consumer Protection (ASAPCP) 2016-2025, the ASEAN Committee on Consumer Protection (ACCP) is committed to the implementation of voluntary peer reviews, as one of the contributions towards a common consumer protection framework. The Peer Reviews examine the existing consumer protection system in selected Member States and provide recommendations on policy reforms. Aside from encouraging ownership and mutual learning, they serve to promote regional dialogue along with regulatory convergence in the longer term.

The Philippines is the first country in ASEAN to be subject to a Peer Review under this framework in 2020. Owing to restrictions related to the COVID-19 pandemic, an innovative remote format for stakeholder engagement was applied. The Peer Review Team (PRT) consisted of Malaysia, Viet Nam and the ASEAN Secretariat, with support from the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH as well as regional and local experts. With reference to the ASEAN High-Level Principles on Consumer Protection (AHLPCP), the assessment covered a wide range of aspects in the following areas: (i) Policy Formulation; (ii) Advocacy; (iii) Monitoring and Enforcement; and (iv) Redress.

The Peer Review took note of the vast track record and advances of consumer protection advocacy and enforcement, based on the 1992 Consumer Act of the Philippines (CAP), as well as supplementary rules and regulations for its implementation. It acknowledged challenges to ensure that the regulatory framework stays current and coherent, both on paper and in practice. Among others, consumer organizations should be strengthened in order to leverage educational efforts and facilitate dispute resolution. There is further an urgent need to introduce or improve mechanisms for inter-agency coordination. As the COVID-19 pandemic hastens digitalization, the Peer Review recommends paying particular attention to addressing impacts on consumers, notably through updated legal provisions that help protect and redress digital consumers.

Chapter 1: Introduction

Under the ASEAN Economic Community (AEC), the ten ASEAN Member States (AMS) foresee regional integration with the following interrelated and mutually enforcing characteristics: (i) A Highly Integrated and Cohesive Economy; (ii) A Competitive, Innovative, and Dynamic ASEAN; (iii) Enhanced Connectivity and Sectoral Cooperation; (iv) A Resilient, Inclusive, People-Oriented, and People-Centred ASEAN; and (v) A Global ASEAN. While the AEC Blueprint outlines the broad direction of strategic measures in the aforementioned areas, sectoral workplans list the specific actions and initiatives to be undertaken by Sectoral Bodies towards the realization of the ASEAN Community Vision 2025.

The work of the ASEAN Committee on Consumer Protection (ACCP) is guided by the ASEAN Strategic Action Plan on Consumer Protection (ASAPCP) for the years 2016-2025. Among the priority deliverables is the implementation of Peer Reviews of consumer protection systems in selected AMS, on a voluntary basis and with benchmarking against the ASEAN High-Level Principles on Consumer Protection (AHLPCP). The latter took reference from the United Nations Guidelines on Consumer Protection (UNGCP), which were last revised by the General Assembly per Resolution 70/186 on 22 December 2015¹.

The Peer Reviews under the ACCP framework are expected to specifically contribute to the realization of Strategic Goal 1 of the ASAPCP to “Establish a Common Consumer Protection Framework” in ASEAN. A comprehensive Guidance Document mapping the envisaged process steps was devised in 2016. The implementation of this Peer Review of the Philippines followed, for the most part, the general process outlined in said Guidance Document. However, due to restrictions in relation to the COVID-19 pandemic, some of the steps needed to be flexibly adjusted in order to allow for remote and virtual engagement in lieu of an in-country mission.

With the introduction of new elements into the methodological approach, a number of valuable lessons could be drawn for the implementation of future peer reviews on consumer protection in ASEAN. The most noteworthy reflections are summarized at the end of this External Peer Review Report (EPR). Moreover, building on the experiences gathered during this initial Peer Review exercise, a separate document with concrete recommendations on updating the existing Guidance Document² is being prepared for consideration by the ACCP, including additional tools and templates.

1.1 Background and Objectives

The ASEAN Peer Reviews on Consumer Protection are carried out as independent external assessments, with the EPR comprising both descriptive and analytical sections. A close alignment with the following principles is envisaged: (i) **Ownership** of all parties, in particular the peer reviewed AMS, to actively contribute to the exercise;

¹ https://unctad.org/system/files/official-document/ditccplpmisc2016d1_en.pdf. Accessed on 22 September 2020.

² Currently only for internal reference of the ACCP.

(ii) **Relevance and reform-orientation**, to ensure that the process and outcomes cater to prevalent political priorities and country-specific conditions; and (iii) **Multi-stakeholder, cross-sectoral engagement**, accounting for the participation and perspectives of relevant actors from the public and private sector, as well as civil society.

In addition, the Peer Reviews on Consumer Protection are devised to be ASEAN-centric, i.e. first and foremost focusing on opportunities and immediate concerns of relevance in the ASEAN region. While the main orientation is provided by the ASAPCP and the AHLPCP, selected international good practices are referenced to the extent that they are applicable and feasible. In the medium term, the Peer Reviews promote peer learning and capacity building, underpinning continuous regional consultations, cooperation, and eventual policy convergence.

The Philippines, through the Department of Trade and Industry (DTI) as its national ACCP focal point, volunteered to undergo the first ASEAN Peer Review on Consumer Protection in 2020. This is set against the backdrop of the longstanding consumer protection system in the country and related reform proposals that are presently being deliberated in Congress. Among others, the latter concern the modernization of the existing principal consumer protection law, in order to strengthen the legal basis and institutional mechanisms for addressing emerging issues associated with digital and cross-border trade. At this, the Peer Review is envisaged to feed additional recommendations into some of the pending bills.

For the purposes of this Peer Review of the Philippines, the peer reviewing countries were Malaysia and Viet Nam. The focal points for these two AMS were the Ministry of Domestic Trade and Consumer Affairs (MDTCA) of Malaysia and the Viet Nam Competition and Consumer Authority (VCCA). As per Guidance Document, an additional member of the Peer Review Team (PRT) was the ASEAN Secretariat (ASEC), represented by the Competition, Consumer Protection and Intellectual Property Rights Division. Finally, the Peer Review was carried out with technical assistance by the *Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH*, who also assigned a tandem of legal and public policy experts from the Philippines as well as an independent expert from Thailand.

1.2 Scope of the Assessment

The Philippines opted for a comprehensive assessment, encompassing all aspects of a consumer protection system. In broad terms, this comprised a discussion and evaluation of (i) the legal and institutional framework for the implementation of consumer protection actions across different sectors; (ii) the stakeholder landscape and effectiveness of relevant entities in charge of consumer protection within the government; (iii) the extent of compliance within the private sector; as well as (iv) consumer awareness, assertiveness and access to redress.

For ease of reference, the Philippines suggested to orient the assessment along the four main areas that fall under the DTI's primary mandate, namely (i) Policy Formulation; (ii) Advocacy; (iii) Monitoring and Enforcement; and (iv) Redress. This allowed for lessons and recommendations to be culled from the Philippine experience,

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with a view towards the gradual establishment of a common regional framework for consumer protection in ASEAN, as stated in the ASAPCP 2025.

Furthermore, in line with common concerns at the forefront of public debate across almost all AMS, a sectoral emphasis was placed on the topic of digitalization, and how consumer rights and interests should be respected in new or revised policies dealing with the digital economy. A dedicated session with multiple stakeholders was organized as part of this Peer Review to critically reflect on the opportunities of digital technologies and their potentially adverse impact on consumer safety, privacy and self-determination.

1.3 Methodology

The peer review commenced with the submission of the standard ACCP Self-Assessment Questionnaire (SAQ) by the Philippines. The results of the SAQ served as the basis for a preliminary assessment of the progress of consumer protection in the country, and to draw attention to the challenges faced by the DTI, as the main implementing agency in the country. This fed into the drafting of the inception report and helped set the parameters for the subsequent more in-depth and interactive review process involving different stakeholders.

The formal establishment and ensuing consultation with the Technical Working Group (TWG), comprised of representatives of key government agencies alongside the DTI, kicked off a series of stakeholder dialogues that formed a crucial part of the Peer Review. Since these dialogues could not be organized as in-person events and had to be transposed to an online format, a survey questionnaire was devised to guide the discussions and to gauge, ahead of the meetings, some views to be addressed in the assessment.

The stakeholder dialogues were organized in altogether six rounds according to thematic priorities which enabled comprehensive feedback from government officials, business representatives, consumer advocates, and academics. The sequence, scope and composition of participants for each stakeholder dialogue can be seen below:

| No. | Cluster | Areas | Stakeholders |
|-----|-----------------------|----------|---|
| I | Consumer organization | Advocacy | Laban Konsyumer Inc. Bulacan Consumer Affairs Council City Federation of Senior Citizen Association, Inc. Federation of DTI-Accredited Organizations in Region 3 Konsumador Hong Butuan, Inc. Surigao del Norte Consumers Org. Pagpanalipod sa Katungod Sa Konsumador Sa Agusan |

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| | | | |
|-----|--|--|--|
| II | Complaints-Handling / Redress | Redress | Department of Trade and Industry |
| III | Consumer Protection in the Digital Era | Policy Formulation Monitoring and Enforcement | Fintech Alliance PH Inc. Laban Konyumer Inc. Bangko Sentral ng Pilipinas Department of Justice - Cybersecurity Office Department of Information and Communications Technology |
| IV | Business to Consumer | Advocacy | Senate of the Philippines Federation of Philippines Industries Congress of the Philippines Philippine Retailers Association Bulacan Consumer Affairs Council |
| V | Supply, Safety, and Standards | Policy Formulation Monitoring and Enforcement | Bureau of Philippine Standards Fair Trade Enforcement Bureau Philippine Consumer Centric Traders Association Inc. Philippine Competition Commission Food and Drug Administration Department of Agriculture Laban Konyumer Inc. Federation of Philippines Industries |
| VI | Academia | Broader policy on consumer protection | DTI - CPAB - Consumer Advocacy Division University of the Philippines Law Department of Education |

Following the above participatory activities, the consultants drafted the Country Assessment Report (CAR), as the primary contribution for the PRT and Plenary Peer Review Meetings in April and May 2021, respectively.

Enriched with comments from the peer reviewing countries, other ACCP Members and the ASEAN Secretariat, this present EPR summarizes and synthesizes all inputs from the desk study as well as the discussions with all relevant local and regional stakeholders.

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Below table shows the detailed schedule and milestones of this Peer Review:

| No. | Milestone | Completion |
|-----|---|--------------------------|
| 1 | Submission of Self-Assessment Questionnaire (SAQ) to the ACCP | August 2020 |
| 2 | Appointment of the Technical Working Group (TWG) | September 2020 |
| 3 | Submission of Inception Report to the ACCP | September 2020 |
| 4 | Kick-off Meeting | November 2020 |
| 5 | Series of Stakeholder Dialogues | November / December 2020 |
| 6 | Submission of Draft Country Assessment Report (CAR) to the ACCP | December 2020 |
| 7 | Debriefing Meeting with TWG and Peer Reviewers | February 2021 |
| 8 | Submission of the CAR to the ACCP | March 2021 |
| 9 | Peer Review Team (PRT) Meeting | April 2021 |
| 10 | Plenary Peer Review Meeting | May 2021 |
| 11 | Submission of the External Peer Review Report (EPR) to the ACCP | June 2021 |
| 12 | National launch and dissemination (<i>planned</i>) | October 2021 |

Chapter 2: Political, Economic and Social Context

The Republic of the Philippines is a democratic state, with a government divided into three co-equal branches: executive, legislative, and judiciary. Executive power rests with the President who is elected by the people in a national election. Legislative power rests with the Congress of the Philippines, consisting of the Senate and House of Representatives.³ The Senate is composed of twenty-four Senators elected at large,⁴ and as of the 18th Congress, the House of Representatives consists of three-hundred and four members. The term of office of a Senator is six years,⁵ whereas that of a member of the House of Representatives is three years. To the Supreme Court, consisting of a Chief Justice and fourteen Associate Justices, rests the judicial power in the country.⁶ Finally, a decentralised political system delegates powers to the provinces, cities, municipalities, and *barangays*.

In terms of geographical expanse, the Philippines is an archipelagic state composed of three major island groups – Luzon, Visayas, and Mindanao. The capital, Manila, is located in Luzon. As for the Human Development Index, the Philippines is placed in the high human development category with the value of 0.712 – ranking it at 106 out of 189 countries.⁷ Life expectancy at birth increased by 4.7 years (at 71.1 years old in 2018, from 66.4 in 1990). The World Bank estimates the total Philippine population to number around one-hundred six million,⁸ with a median age of 25.7 as of 2020.⁹

At present, the Philippines is categorized as a lower middle-income country, but it is transforming to an upper middle-income country in near term, with a per capita income range of US\$4,046-\$12,535.¹⁰ Domestic consumption accounts for the largest share of gross domestic product (GDP), yet the country is also an established exporter of electronic components and manpower services¹¹. Based on data from the International Monetary Fund, the projected change in real GDP of the country in 2021 is 6.9%.¹²

³ Article VI, Section 1, 1987 Constitution.

⁴ Article VI, Section 2, 1987 Constitution.

⁵ Article VI, Section 4, 1987 Constitution.

⁶ Article VIII, Section 1, 1987 Constitution.

⁷ UNDP. (2019) Inequalities in Human Development in the 21st Century, Human Development Report 2019: Philippines. http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/PHL.pdf. Accessed on 22 September 2020.

⁸ The World Bank. (2020). The World Bank IBRD-IDA Data. <https://data.worldbank.org/country/PH>. Accessed 22 September 2020.

⁹ Statista. (2020). Philippines: Quickstat average age of population from 1950 to present. <https://www.statista.com/statistics/578796/average-age-of-the-population-in-philippines>. Accessed on 23 September 2020.

¹⁰ <https://www.worldbank.org/en/country/philippines/overview> Accessed on 31 May 2021.

¹¹ Country Report: Philippines, The Economist Intelligence Unit Limited, 2021.

¹² <https://www.imf.org/en/Countries/PHL>. Accessed on 31 May 2021.

Chapter 3: Legal Framework

The Philippines possesses one of the longest track records of consumer protection in the ASEAN region. The 1987 Constitution provides that the State shall *protect consumers from trade malpractices and from substandard or hazardous products*.¹³ In broader terms, the Constitution also foresees that the State shall *protect and promote the right to health of the people*,¹⁴ and that the State shall further *pursue a trade policy that serves the general welfare and utilizes all forms and arrangements of exchange on the basis of equality and reciprocity*.¹⁵

In order to meet this obligation under the Constitution, the Philippines enacted Republic Act No. 7394, otherwise known as the **Consumer Act of the Philippines (CAP)**, as the principal consumer protection law, on 13 April 1992. In addition to the CAP, there are multiple sectoral laws and regulations that have a bearing on consumer protection and are listed in the following section.

3.1 Consumer Act of the Philippines (CAP)

The CAP affords consumers comprehensive protection against hazards to health and safety;¹⁶ and against deceptive, unfair, and unconscionable sales acts and practices.¹⁷ It further accounts for the provision of information and education to facilitate the sound choice and proper exercise of rights by consumers,¹⁸ including adequate rights and means of redress.¹⁹ Finally, the CAP allows for the involvement of consumer representatives in the formulation of social and economic policies.²⁰ Although the eight fundamental rights of consumers, as recognized under the UNGCP, are not expressly enumerated, those rights are emphasized in the Declaration of Policy of the CAP.

In order to implement its objectives, the CAP contains specific chapters on Consumer Product Quality and Safety,²¹ Food, Drugs, Cosmetics, and Devices,²² Hazardous Substances,²³ Deceptive, Unfair, and Unconscionable Sales Acts or Practices,²⁴ Practices Relative to Weights and Measures,²⁵ Consumer Product and Service Warranties,²⁶ Labelling and Fair Packaging,²⁷ Liability for Product and Service,²⁸

¹³ Art. XVI Sec. 9, 1987 Philippine Constitution.

¹⁴ Art. I Sec. 15, 1987 Philippine Constitution.

¹⁵ Art. XII Sec. 13, 1987 Philippine Constitution.

¹⁶ Art. 2a, CAP.

¹⁷ Art. 2b, CAP.

¹⁸ Art. 2c, CAP.

¹⁹ Art. 2d, CAP.

²⁰ Art. 2e, CAP.

²¹ Art. 5-19, CAP.

²² Art. 20-41, CAP.

²³ Art. 42-47, CAP.

²⁴ Art. 48-60, CAP.

²⁵ Art. 61-65, CAP.

²⁶ Art. 66-73, CAP.

²⁷ Art. 74-95, CAP.

²⁸ Art. 96-107, CAP.

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Advertising and Sales Promotion,²⁹ Regulation of Repair and Service Firms,³⁰ and Consumer Credit Transactions.³¹

Business Responsibilities and Liability

The obligations for businesses are described in much detail in the CAP, including liability of sellers, for example for defective products; prohibitions, among others on stockpiling or misleading advertisements; as well as applicable administrative penalties that businesses might be subject to if it is found that they have violated the CAP. According to Article 18 of the CAP, failure to comply with the provisions on prohibited acts may incur a fine of 1,000-10,000 PHP, imprisonment of no less than two months and up to one year, or sanctions as per discretion of the court.³²

Specifically for labelling, DTI issued a technical regulation under the CAP. Aside from stating requirements on marking for certain products, it prescribes the rules and regulations related to the responsibilities of manufacturers, importers, traders, wholesalers, distributors, retailers, and/or their agents of all products covered by the DTI's mandatory product certification scheme; the procedures for compliance with the required and applicable Philippine National Standard regarding quality or safety; as well as the corrective measures and penalties in the event of non-compliance.³³

Under the CAP, consumers are expressly entitled to repairs in case of defective products, or replacements, and reimbursement of the paid amount, or an appropriate price reduction, in case the issue cannot be addressed within thirty days. It is worth noting that the CAP does not distinguish whether a transaction has been made offline or online. However, products purchased by businesses for commercial and industrial use are excluded from the scope of the CAP and regulated under other pertinent laws.

As concerns the protection of vulnerable consumers, the CAP states that unfair or unconscionable sales acts or practices in connection with a consumer transaction are in violation of the CAP *whenever the producer, manufacturer, distributor, supplier or seller, by taking advantage of the consumer's physical or mental infirmity, ignorance, illiteracy induces the consumer to enter into a sales transaction grossly inimical to the interest of the consumer or grossly one-sided in favor of the producer, manufacturer, distributor, supplier or seller.*³⁴

Finally, to keep business practices in check and discipline those businesses that violate the CAP, a number of provisions stipulate administrative action and sanctions, notably the issuance of a cease and desist order, as well as the acceptance of voluntary assurance of compliance or discontinuance by the businesses in question.³⁵ Moreover, the CAP outlines the possibility of restitution or rescission of the contract without damages; condemnation and seizure of products that have been found hazardous to consumer health and safety; and finally the imposition of administrative

²⁹ Art. 108-124, CAP.

³⁰ Art. 125-130, CAP.

³¹ Art. 131-147, CAP.

³² Art. 19, CAP.

³³ Department Administrative Order (DAO) No. 2, Series of 2007 under the CAP.

³⁴ Art. 52, CAP.

³⁵ Art. 164, CAP.

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fines, depending on the gravity or severity of the violation. In addition to the latter, criminal charges may be pressed in certain cases.

Consumer Redress

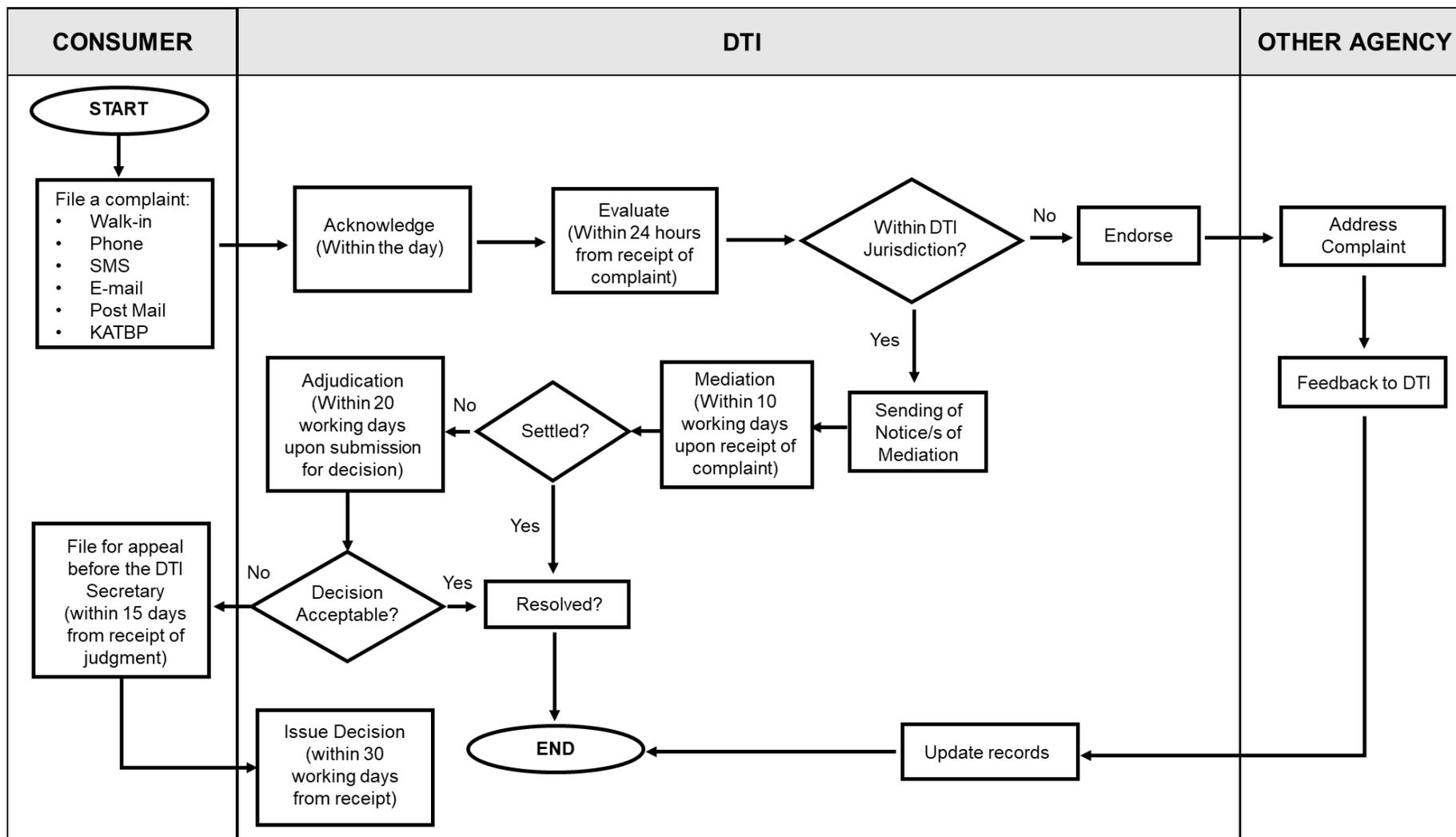
With respect to consumer dispute resolution, the DTI, as one of the main implementing agencies for the CAP, may commence an investigation upon petition or letter complaint from any consumer, and initiate formal administrative action accordingly. This applies similarly to other government agencies charged with a mandate on consumer protection. According to the CAP, procedures shall be established *for systematically logging in, investigating and responding to consumer complaints into the development of consumer policies, rules and regulations, assuring as far as practical, simple and easy access on the part of the consumer to seek redress.*³⁶

Simplified and Uniform Rules of Procedure for administrative cases filed with the DTI for violations of the CAP and other trade-related laws apply.³⁷ The mediation mechanism described therein foresees that an Adjudication Officer be engaged to assist with dispute resolution. The existing process is presented in the chart below. However, according to the CAP, each government agency shall individually establish a process that is consistent with the requirement for simple and easy access to redress for consumers. Meanwhile, as concerns judicial remedies, the Revised Rules of Court apply. A specialized judicial mechanism to pursue and process consumer claims currently does not exist in the Philippines. Although the Department of Justice has set up the Office of Alternative Dispute Resolution, it is not primarily concerned with disputes that arise between businesses and consumers.

³⁶ Art. 159, CAP.

³⁷ DTI Department Administrative Order No. 7 of 2006.

DTI Procedural Flowchart on Complaints-Handling



Source: Joint DTI-DICT-NTC-NPC-DOJ Administrative Order No. 18-01 Series of 2018

3.2 Sectoral Laws

Republic Act No. 7581, otherwise known as the **Price Act** of 1992, was passed to ensure the availability of basic necessities and prime commodities at a reasonable price.³⁸ In addition, Republic Act No. 11127, otherwise known as the **National Payments Systems Act** of 2018, regulates the manner by which sellers can establish their payment systems for the consuming public.³⁹ Meanwhile, Republic Act No. 10909, otherwise known as the **No Short-Changing Act** of 2016, mandates business establishments to give the exact change without need for further requests from consumers.⁴⁰

Republic Act No. 10642, otherwise known as the **Philippine Lemon Law** of 2013, covers the full protection of consumers against deceptive and unfair trade practices during the sale of motor vehicles.⁴¹ Similarly, consumers of food would be able to use the provisions of Republic Act No. 10611, otherwise known as the **Food Safety Act** of 2013, in order to protect their rights, while purchasers of toys and games can find guidance and protection under Republic Act No. 10620, otherwise known as the **Toy and Game Safety Labelling Act** of 2013. Besides that, Republic Act No. 4109, otherwise known as the **Standards Law** of 1964, governs the standardization and inspection of products and imports.

Republic Act 10667, otherwise known as the **Philippine Competition Act** of 2015, strives to enhance consumer welfare by creating a level playing field and fostering fair competition among businesses. At its core is the promotion of efficient markets by penalizing anticompetitive agreements and activities.⁴² This serves to provide consumers with a wider array of choices to make informed decisions concerning the purchase of goods and utilization of services; meanwhile, businesses are encouraged to innovate in order to better cater to consumer needs and preferences.

Republic Act No. 8792, otherwise known as the **Electronic Commerce Act** of 2000, presently governs online transactions, with Section 33 mentioning that “*violations of the Consumer Act and other relevant or pertinent laws through transaction covered by or using electronic data messages or electronic documents, shall be penalised with the same penalties as provided in those laws.*” That being said, apart from recognizing that consumer transactions may be facilitated by electronic data messages or electronic documents⁴³, there is no particular recognition of the complexities of current business models in e-commerce. Thus the Act is under review and could soon be replaced by the upcoming Internet Transactions Bill. Other relevant bills presently pending in Congress are intended to deal with digital platforms; cross-border transactions involving foreign sellers; cashless payment methods and mechanisms; or internet connectivity.

³⁸ Sec. 2, Price Act.

³⁹ Section 6(a-d), National Payments Systems Act.

⁴⁰ Section 4, No Short-changing Act.

⁴¹ Sec. 2, Philippine Lemon Law.

⁴² Section 2(c), Republic Act 10667.

⁴³ See Joint DTI-DOH-DA Department Administrative Order No. 01, Series of 2008, known as the Rules and Regulations for Consumer Protection in a Transaction covered by the CAP through Electronic Means.

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Within the context of the digital economy, Republic Act No. 10173, otherwise known as the **Data Privacy Act** of 2012, seeks to protect all forms of information that is private, personal or sensitive, covering both natural and juridical persons involved in data processing.

With the rising number of online payments, strengthening consumer protection in financial services becomes particularly urgent. The Bangko Sentral ng Pilipinas received about 20,000 complaints in 2020 through its Consumer Protection and Market Conduct Office, 13% of which involved fraudulent or unauthorized transactions of various financial products and services, such as deposit, credit card, electronic money (e-money), and remittances.⁴⁴ In light of this, a **new Financial Consumer Protection Act** is being proposed and slated to fill gaps in the more general scope of application of the CAP.

As concerns vulnerable and disadvantaged consumers, the Philippines has several laws in place, such as Republic Act No. 9994, otherwise known as the **Expanded Senior Citizen's Act** of 2010, and Republic Act No. 9442, otherwise known as the **Magna Carta of Persons with Disabilities** of 2006. Although their implementation does not fall under the direct purview of the DTI, these legal provisions are critical in complementing the CAP and completing the consumer protection regime. As in the case during the COVID-19 pandemic, the DTI from time to time undertakes regulatory actions to promote the rights of elderly consumers and those with disabilities, for example to accord them priority for the purchase of basic necessities and other essential items.⁴⁵

Finally, several **Administrative Issuances** have been issued by the implementing agencies in charge of consumer protection. Of note are DTI Department Administrative Order No. 19-03 (Implementing Rules and Regulations of the Gift Check Act of 2017), DTI Department Administrative Order No. 17-07 (Guidelines on the Recognition of Consumer Organizations), DTI Department Administrative Order No. 7 (Procedural Rules for Admin Cases filed with DTI concerning violations of the CAP and other trade industry laws), as well as the DTI-Department of Health-Department of Agriculture Administrative Order No. 1 (Implementing Rules and Regulations for Consumer Protection E-Commerce Transactions within the scope of the CAP).

⁴⁴ <https://www.pna.gov.ph/articles/1132618> Accessed on 7 June 2021.

⁴⁵ See Memorandum Circular No. 20-09 of the DTI, titled Pagpapahalaga sa mga Senior Citizens, or Manual on Disability Inclusive Governance, "Disability Towards Inclusivity", DTI, page 11, concerning disability-inclusive product standards.

Chapter 4: Consumer Protection Agencies and Other Actors

According to the CAP, the following government entities are mentioned as its main implementing agencies:

- Department of Health (DOH), responsible for handling products and services related to food, drugs, cosmetics, devices, and substances; and
- Department of Agriculture (DA), responsible for agricultural products and services;
- DTI, responsible for products and services not covered by DOH and DA.

Under the CAP, each agency is granted the power to establish consumer product quality and safety standards for products falling within their respective jurisdiction. For the formulation of standards, technical committees, comprising also representatives from the private sector as well as consumers, shall be set up. All three agencies have their own Provincial and Regional Offices, facilitating the implementation and enforcement of the CAP across the country. When new consumer-related concerns arise that are not covered by existing laws, the aforementioned agencies are routinely involved in hearings, meetings, and consultations regarding the same.

4.1 Department of Trade and Industry (DTI)

Under the DTI, consumer protection affairs are handled by the Consumer Protection Group (CPG), comprising the following units:

- Consumer Policy and Advocacy Bureau (CPAB) which acts as a policy-making body and oversees the advocacy of trade and consumer protection laws;
- Bureau of Philippine Standards (BPS) which is responsible for developing, promoting, and implementing standards and related programs nationwide;
- Fair Trade Enforcement Bureau (FTEB) which oversees the overall implementation of trade and consumer protection laws.

4.2 Sectoral Agencies

To better address consumer-related issues in various sectors, different Departments and Offices of the Philippine Government entered into a Memorandum of Agreement in 1996, creating the **Philippine Consumer Network**. Pursuant to amendments to the Memorandum in 2001 and 2004, following sectoral agencies are currently members of the Consumer Network:

- Department of Trade and Industry;
- Department of Health;
- Department of Energy;
- Department of Interior and Local Government;
- Department of Transportation and Communication;
- Department of Justice;
- Department of Environment and Natural Resources;

- Department of Finance;
- Bureau of Internal Revenue;
- Insurance Commission;
- Housing and Land Use Regulatory Board;
- Securities and Exchange Commission;
- Metropolitan Manila Development Authority;
- Energy Regulation Commission;
- Bangko Sentral ng Pilipinas;
- Metropolitan Waterworks and Sewerage System;
- Local Water Utilities Administration;
- Department of Agriculture;
- Department of Education;
- Bureau of Customs;
- Metro Manila Local Government Units;
- Department of Transportation;
- National Water Resources Board;
- Philippine Deposit Insurance Corporation;
- Philippine Health Insurance Corporation;
- Food and Drug Administration;
- Land Transportation Franchising and Regulatory Board; and
- National Telecommunications Commission.

4.3 Consumer Organizations

According to the CAP, meaningful consumer participation is a priority, as the implementing agencies tasked with creating the necessary procedures in order to ensure that consumer organizations take part in the development and review of rules, policies, and programmes relating to consumer welfare and protection. Notably, the DTI has formulated guidelines on the Recognition of Consumer Organizations. Specific benefits can be obtained by consumer organizations that have been endorsed by the DTI, including project or technical assistance.⁴⁶ However, consumer organizations in the Philippines are not allotted a separate budget from the government. To date, the DTI recognized one consumer organization in the National Capital Region, alongside nine others in the regions.

Even though there are several prominent consumer organizations in the country, most are essentially local and single-issue based, making their activities focused only on particular concerns, for example in a specific sector. IBON Foundation, Laban Konsyumer, and Bulacan Consumer Affairs Council are examples of more active and well-known organizations; the former two are members of Consumers International. Although involved in policy formulation and public consultations, the laws to date do not foresee for consumer organizations to also engage in dispute resolution.⁴⁷

⁴⁶ DTI Administrative Order No. 17-07 s. 2017; revised Guidelines per Department Administrative Order No. 20-07 s. 2020.

⁴⁷ Ibid.

4.4 Private Business Organizations

The DTI's strategy foresees partnering with private business organizations to promote ethical business practices. Among the well-known industry associations that have been engaged in consumer protection programs are the longstanding Philippine Retailers Association (PRA), or newer entities, such as the Digital Commerce Association or the Online Sellers Association of the Philippines. Similarly, as consumer organizations, private business organizations are actively engaged in hearings to comment on draft policies, laws and regulations in the country.

Aside from that, individual consumer champions from the business community are able to obtain a Seal of Excellence from the DTI under the Bagwis Program if they fulfil certain criteria related to upholding consumer rights. Retailers are encouraged to establish "consumer welfare desks" (or "consumer corners") to make available consumer information from the DTI, and if awarded, may get special mention in information campaigns during the Consumer Welfare Month as well as avail of DTI training.

4.5 International Cooperation

The Philippines was one of the five founding fathers of ASEAN cooperation in 1967, together with Malaysia, Thailand, Singapore, and Indonesia. As a Member State of ASEAN, it has been playing an active role in various Sectoral Bodies concerned, directly or indirectly, with consumer protection issues, notably: ASEAN Committee on Consumer Protection (ACCP), ASEAN Coordinating Committee on Standards and Quality (ACCSQ), ASEAN Experts Group on Competition (AEGC), and ASEAN Coordinating Committee on E-Commerce (ACCEC). The Philippines acted as chair of ASEAN and of the ACCP in 2017.

In addition to active participation in ASEAN bodies and fora, the Philippines, through the DTI, is also a member of the International Consumer Protection Enforcement Network (ICPEN) and has been attending the meetings of the Intergovernmental Group of Experts (IGE) on Consumer Protection, led by the United Nations Conference on Trade and Development (UNCTAD). The Philippines is a member of a peer review working group in 2021, joining a proposal with the United States and others on updating the existing procedures of the UNCTAD peer reviews. Additionally, the Bureau of Philippine Standards (BPS) represents the Philippines in the Committee on Consumer Policy of the International Standards Organization (ISO COPOLCO).

Chapter 5: Key Findings and Observations

In the following, an evaluation of the strengths and weaknesses of the existing consumer protection regime of the Philippines is provided. The findings are derived from the desk study, series of stakeholder dialogues conducted between November and December 2020, as well as consultations with members of the TWG and ACCP. After highlighting a few success stories, selected challenges will be noted. The chapter concludes with a brief benchmarking against the AHLPCP.

5.1 Progress

In recent years, noticeable advances have been made with respect to building public awareness about pertinent consumer issues in the Philippines. According to the Pulse Asia Ulat ng Bayan Survey for the last quarter of 2020, 81% of Filipino consumers are aware of their rights and responsibilities. This reflects a 21% increase in the degree of consumer awareness, compared to the 60% result of the September 2019 survey.⁴⁸ Meanwhile, the ASEAN Consumer Empowerment Index (ACEI) of 2019/2020 attests “moderate empowerment” to Filipino consumers, with relatively high scores on the competence of consumers to detect threats against their rights.⁴⁹

The outreach efforts of the DTI can be credited for successfully increasing consumer awareness and capabilities. This has been particularly evident since the onset of the COVID-19 pandemic in 2020 that prompted the DTI to routinely conduct, on a weekly or at times bi-weekly basis, a total of 51 “**Consumer Care**” webinars⁵⁰ and related social media campaigns that reached almost 26,000 consumers in the entire country. Among others, the topics addressed in these virtual discussions included product labelling and packaging, false or misleading advertisement, as well as deceptive and unfair sales practices. As a popular fixture, the DTI webinars complement the more traditional mode of the 1-384 hotline for responding to consumer queries and concerns.

Another instrumental program to reach consumers is Konysumer At Iba Pa (KATBP), a consumer education television and radio program, aired every Saturday from 09:00 AM to 10:00 AM, in partnership with the leading news and entertainment network in the Philippines. This program is also simultaneously livestreamed in DTI’s Official Facebook Page.

Adding to the aforementioned educations efforts are regular activities of the DTI to inspect shopping premises and markets in order to check and control whether the products on offer are in compliance with safety and quality standards, and whether prevailing precautions related to COVID-19 are being observed. For the purposes of monitoring, surveillance and enforcement of the safety and quality of locally made and imported products under the mandatory product certification scheme, the DTI entered

⁴⁸ DTI Annual Report, 2020.

⁴⁹ The Report of ASEAN Consumer Empowerment Index 2020 Pilot Project, Country Factsheet: Philippines.

⁵⁰ See <https://www.dti.gov.ph/archives/news-archives/webinars-on-covid-19-issuances> and https://web.facebook.com/DTI.ConsumerCare/?_rdc=1&_rdr.

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into Memoranda of Agreement with the National Bureau of Investigation, the National Intelligence Coordination Agency, as well as the Philippine National Police.

Particularly for basic necessities and prime commodities, the DTI put into place an **Online Price Monitoring System** called “e-Presyo” through which consumers are able to track the suggested retail prices (SRP), as well as price freezes, that have been advised by the government. In 2020, the DTI announced that online retailers, too, would need to follow the SRP, warning of action against overpricing and profiteering during the pandemic. The DTI also invoked purchase limits on certain items to counter panic-buying and hoarding.⁵¹ Aside from the DTI’s main office in Manila, its decentralized offices in the provinces, under the Regional Operations Group (ROG), play an important role in the provision of consumer information and advice at the “grassroots” level.

As concerns complaints-handling, DTI established a so-called “**No Wrong Door**” policy, which entails that the DTI will facilitate any consumer complaint or query received, including assisting with directing consumers to any other sectoral agency in charge. With this policy, DTI received and processed 63,081 consumer complaints in 2020. Of the 15,978 complaints under its jurisdiction, 15,858 or 99.19% were resolved, either within 10 working days through mediation or within 20 working days through adjudication. Among others, complaints were related to violations of the CAP and Price Act. The majority of complaints were referred to other government agencies for appropriate action.⁵²

To date, no specific mechanism to resolve consumer disputes in e-commerce has been set up. Acknowledging the need for tapping on technology to process consumer complaints more efficiently and effectively, the DTI is presently in the process of setting up the so-called **Philippine Online Dispute Resolution System (PODRS)**.⁵³ It is intended to streamline and improve existing complaints-handling procedures, also with a longer-term view towards integration with ODR systems in other countries. As a central online portal or platform through which complaints from both offline and online transactions can be coursed, the PODRS will shift from a manual to automated referral system, according to harmonized standards across government agencies. As such, it will transpose the existing Consumer Network to an eConsumerNet, interlinking all member agencies, in three phases: (i) Development and operationalization of complaints-filing, real-time tracking, ageing, report generation, and status updating; (ii) Integration of virtual mediation and online resolution of consumer complaints; and (iii) Interfacing with the ASEAN ODR Network for the effective resolution of disputes between businesses and consumers located in different AMS.

⁵¹ <https://www.cnnphilippines.com/news/2020/6/2/online-sellers-DTI-SRP.html>. Accessed 22 September 2020.

⁵² DTI Annual Report, 2020.

⁵³ DTI Department Administrative Order No. 20-05/2020.

5.2 Challenges

In following, challenges are described that were identified as part of the literature review and during the stakeholder dialogues. The section is structured along the four main areas determined by the Philippines as the scope of this Peer Review.

Policy Formulation

The first observation from reading the CAP is that the current wording does not seem to directly empower consumers nor express which specific rights they possess. Rather, it provides for the State to protect consumers and does not quite encourage consumers to proactively protect themselves. This reflects a rather paternalistic role of the government vis-à-vis passive consumers. Without neglecting or diminishing the supporting function of and reliance on relevant agencies in implementing the CAP, some rephrasing, or reframing, of the amendment could prove useful in order to influence a shift of mindset among stakeholders in the long run.

Some degree of regulatory overlap can be observed in managing consumer protection actions, notably in the digital economy. During the stakeholder dialogues for this Peer Review, ongoing efforts to step up the protection of online consumers were duly acknowledged. However, it was also suggested to re-examine existing regulations whether evolving e-business models and practices in e-commerce are already adequately addressed. There is further a need to review roles and responsibilities, such as those of the offices or bureaus under the Department of Justice vis-à-vis other sectoral agencies, to determine which agency should take the lead (at which stage) in investigating cybercrimes and other offenses related to digital consumerism.

As concerns institutional arrangements, the aforementioned Philippine Consumer Network constitutes an important vehicle to work towards streamlining procedures and enforcement practices across sectors and agencies. Additionally, under the CAP, the National Consumer Affairs Council (NCAC) was created, comprising representatives from the DTI, Department of Health, Department of Agriculture, Department of Education, alongside representatives from consumer organizations, and representatives from the business community.⁵⁴ With this multi-stakeholder composition, the NCAC has been tasked with: (i) coordinating existing consumer protection policies and programs, (ii) monitoring and evaluating the implementation of these programs, (iii) recommending new policies and propose amendments to existing legislation, and (iv) undertaking research on consumer education and information campaign. That notwithstanding, while both the NCAC and Philippine Consumer Network intend to improve cross-sectoral coordination, joint priority actions have yet to be pursued. Thus, even in view of their potential and efforts to (re)activate and strengthen both platforms, they remain relatively underutilized.

⁵⁴ Art. 148-9, CAP.

Advocacy

The comparatively large population of the Philippines, and the wide geographical and archipelagic expanse of the country, mean that there is room to expand consumer outreach to even the remote areas. Although the aforementioned programmes facilitated by the DTI constitute a positive development, they cannot as comprehensively cover all consumers across the country. An integrated consumer education program for secondary education dating from 2010 was confirmed during a stakeholder dialogue to have been discontinued. Moreover, targeted awareness-raising would be warranted to address specific consumer vulnerabilities, be in different sectors, in the face of e-commerce, or to tailor information and advice to certain disadvantaged groups.

All in all, the scope of action of consumer organizations is still quite limited, with only little coordination to undertake concerted efforts both vis-à-vis consumers and to voice out consumer concerns as well as make their rights more visible in policy discussions. Furthermore, representatives of consumer organizations interviewed for this Peer Review pointed to a severe lack of funding which impedes their reach and effectiveness. A crucial challenge persists with respect to collectively taking up, on behalf of consumers, larger claims against businesses, as is common in other countries. A question that repeatedly came up in the stakeholder dialogues was whether resources and political standing could be leveraged through a more strategic organization and systematic operationalization of consumer groups, for example under the umbrella of a nation-wide federation or forum.

Monitoring and Enforcement

For a more coherent and coordinated approach towards standards development by the BPS or its recognized Standards Development Organizations,⁵⁵ the DTI published the Philippine Standardization Strategy 2021-2023. That notwithstanding, product testing and market surveillance of imported goods is proven to be challenging. Although the application of product standards to ensure that consumers are safe from harm looks overall good on paper, it faces challenges in practice due to limited facilities and manpower, particularly in the provinces. Besides that, the obligation for businesses to conduct mandatory product testing under the DTI scheme is insufficiently defined.

Even though the CAP clearly states business obligations and liability with respect to consumer transactions, the enforcement of consumer rights against businesses that violate the CAP calls for improvement. Amid the COVID-19 pandemic, the DTI has repeatedly warned businesses that even criminal charges could be filed for profiteering which is in violation against the CAP and Price Act. However, despite that, the deterrent effect of administrative sanctions possible under the present CAP remains limited, especially considering the comparatively low upper limit for monetary fines.

⁵⁵ Ibid.

Redress

While the DTI's "No Wrong Door" policy comes with greater convenience and less of an administrative burden for consumers, it puts a significant strain on the existing personnel resources of the DTI, due to challenges with internal processing and inter-agency referral of consumer complaints. In many cases, the jurisdiction is not clearly defined domestically, which is further aggravated when cross-border transactions in e-commerce come into play.

Furthermore, aside from cursing a complaint via DTI or other government agencies, consumers who wish to take up a complaint against a business are faced with potential barriers in the form of litigation costs and might be discouraged from potentially lengthy court procedures. A scheme to assist consumers from less well-to-do backgrounds exists, but in case grievances cannot be amicably reconciled through mediation, consumers would still be required to take their claim to court.

5.3 Conclusions

With a considerable and comparatively long record of consumer protection, the Philippines stands well-equipped with a comprehensive framework, legal instruments and institutional mechanisms to help safeguard the rights and legitimate economic interests of consumers. As noted in this EPR, numerous achievements bear testimony to this. That notwithstanding, challenges persist to keep abreast of and effectively address the dynamics of the digital economy, including ensuring that consumers are sufficiently educated, empowered and redressed both off- and online.

The following section contains commentaries to compare the existing consumer protection system in the Philippines against the **AHLPCP**, but refrains from providing a rating on the extent to which each principle is realized.

Principle 1 – Fair, Consistent, Effective and Proportionate Enforcement of Consumer Protection Laws

This principle foresees the adoption of flexible laws and regulations, while using risk-based assessments that help direct resources towards maximum impact on consumer welfare. Given that the CAP, in particular, is almost 30 years old, it is inevitable that detailed and more up-to-date administrative and procedural arrangements on consumer protection are governed by implementing rules and regulations. With these being issued by different government agencies, however, regulatory overlaps need to be avoided. The upcoming amendment of the CAP poses an opportunity to consolidate existing provisions in the interest of greater legal certainty and consistency.

Principle 2 – Consumers are Equipped with the Skills, Knowledge, Information and Confidence to Exercise their Rights

This principle envisages a high degree of consumer empowerment, as a result of consumers being provided with comprehensible, accurate and relevant information about the products and services on offer. In this connection, the DTI's efforts, together

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with other implementing agencies, to promote fair, responsible business practices and consumer awareness are noteworthy. Utilizing various channels and engagement formats, such as call-in radio shows, business awards and the annual celebrations of World Consumer Rights Day on 15 March as well as Consumer Welfare Month in October can be considered an effective approach.

Principle 3 – Consumers are Protected from Harmful Goods and Services

This principle serves to ensure consumer safety as a collective effort of government agencies, businesses, consumer organizations and the consumers themselves, with the latter knowing how to spot and avoid potentially harmful products and services. As demonstrated by the results of the ACEI, consumers in the Philippines are moderately empowered, also in this regard. Continued efforts are therefore indispensable in order to build the awareness and capacities of all relevant stakeholders, while at the same time improving product testing and recalls.

Principle 4 – Consumers Have Access to Appropriate and Convenient Sources of Advice and Redress including Alternative Dispute Resolution (ADR)

This principle accounts for the right of consumers to redress for which cost-efficient and expedient mechanisms should be available. As noted in this Peer Review, the main responsibility lies with the DTI to make sure that consumers have access to redress, based on the “No Wrong Door” policy. It was, however, confirmed by many stakeholders interviewed for this Peer Review that substantial human resources are required. As a specialized court procedure for small claims does not exist yet (and would likely entail far-reaching legislative reforms), opportunities present themselves through the upcoming PODRS and from the systematic expansion of the pool of entities to assist consumers, besides the DTI.

Principle 5 – Consumers Understand the Impact of Consumption Decisions on the Shared Environment

This principle is concerned with fostering an understanding of how consumers can change consumption patterns and practices in order to reduce environmental impacts. Consumers that express preferences and demand for more ethical and eco-friendly products and services can ultimately drive businesses to innovation and more responsible production. While the CAP does not specifically tackle sustainable consumption, the Philippines developed an action plan and several programs for the same. The DTI itself leads an ACCP initiative to prepare a toolkit on sustainable consumption, hosting a regional forum and other public activities in 2019 and 2020.

Principle 6 – Strong Consumer Advocacy is Promoted

This principle strives to account for the inclusion of consumer rights and interests in the formulation of policies, laws and regulations. In the Philippines, a mechanism to routinely engage the DTI and other sectoral agencies in congressional activities and public hearings is already well established. In principle, consumer organizations, too, have the opportunity to participate in and contribute to such endeavors.

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Principle 7 – High Levels of Cooperation between Different Levels of Government and with Business and Other Stakeholders

This principle looks towards encouraging stakeholder engagement and coordination beyond the government. It is founded in the understanding that an effective consumer protection regime is founded on co-regulation with businesses as well as dialogues with consumer advocates, also at the sub-national level. The Peer Review presents a mixed picture concerning this principle, taking note of the important efforts of the ROG whilst recognizing crucial challenges for consumer organizations to link up with both the government and one another.

Principle 8 – Consumers in E-commerce are Protected

This principle intends to keep legal frameworks on consumer protection current, also in the face of the digital economy. It is often stated in international discourse that digital consumers should be accorded the same degree of protection as when they engage in a “brick and mortar” marketplace. While many laws, including the CAP, do not make a distinction regarding violations of the law by offline vs. online sellers, this does not necessarily point to effective or comprehensive protection but may be owing to an enactment prior to the advent of e-commerce. Now, as the COVID-19 pandemic, accelerates digitalization in virtually all areas of life, it is worthwhile to periodically revisit existing policies, laws and regulations in order to check whether they can keep pace with recent developments in trade and technology. Specifically, the upcoming PODRS as well as imminent amendment of the CAP and related laws on internet transactions, including digital financial services, provide concrete entry-points for enhancing consumer rights in relation to this principle.

Chapter 6: Policy Recommendations

The assessment of the existing legal and institutional framework for consumer protection in the Philippines shows that its alignment with the AHLPCP is already on a good track, particularly acknowledging that policy efforts are under way that will fill some of the gaps identified in this Peer Review. The fast-paced developments and dynamics of digital and cross-border trade mean, however, that complex challenges for inter-agency coordination and consumer empowerment are inevitable. With this in mind, the following sections list a number of key recommendations for consideration by relevant stakeholders in advancing further reforms. Where appropriate, international or regional good practices are referenced in order to inspire similar actions in the Philippines in the medium to longer term.

6.1 Policy Formulation

For enhanced policy coherence and coordination, the proposed amendment of the CAP shall be closely synchronized with other bills that are currently pending at varying stages in Congress. This not only comprises bills to govern the digital economy, but also to strengthen the enforcement of product safety and standards. Conceptually, the language of the CAP should be more consumer-oriented, reflecting “modern” notions of consumer empowerment, as opposed to a rather inactive role of the consumers vis-à-vis both businesses and the government. The EU General Data Protection Regulation (GDPR) constitutes a good example of a more **rights-based approach to consumer legislation**.

In the interest of streamlining various policy and sectoral efforts related to consumer protection, the formulation of an **overarching consumer protection policy, plan or program** may be considered, with a view towards guiding future actions more strategically and systematically. It could be elaborated in a multistakeholder approach, led by the DTI, and cover the responsibilities of – and contributions from – different government entities, the private sector, as well as consumer organizations. This could help map and prioritize actions, while mobilizing additional resources, both domestically as well as from international development partners. It may also help with reviving the Consumer Network and/or NCAC. As an inspiration, the recent National Consumer Protection Programme of Myanmar or the National Strategy on Consumer Protection of Indonesia could be drawn upon. Malaysia, too, is presently in the process of devising its National Consumer Policy 2.0, as the basis for more coordinated consumer protection actions across sectors.

6.2 Advocacy

Seeing that the advocacy and awareness-raising programs of the DTI are already comprehensive and broad in coverage, the recommendation is to advance and augment existing efforts, including outreach different media outlets and social media, such as the KATBP radio show. With the DTI’s Consumer Care Webinar Series (CCWS) serving as one of the prominent efforts by the DTI to raise awareness and

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educate consumers, especially during the pandemic of COVID-19, these ties with the wider consumer community and other stakeholders should be sustained.

Aside from enhancing the existing programmes, another initiative could entail more focused activities tailored to the needs of specific groups of consumers, such as the elderly or consumers with disabilities, or local SMEs and online sellers. For educating the latter and encouraging co-regulation, the ASEAN Online Business Code of Conduct could be disseminated. Furthermore, social media, apps and gamification approaches pose new opportunities for more **innovative media and methods** related to consumer outreach and education.

A nation-wide **standardized consumer education programme**, to be carried out in cooperation with consumer organizations, could be devised. Apart from tapping on existing information and training materials of the DTI, the content of the technical modules and teaching tools prepared by the ACCP on various subjects, such as product safety and labelling, consumer credit and banking, etc., could be incorporated. The forthcoming ACCP Sustainable Consumption Toolkit, shepherded by the Philippines, may also be utilized in consumer education. A **training of trainers** approach, involving regional offices and consumer organizations, is recommended to alleviate any resource constraints on the part of the DTI while leveraging outreach to all provinces and segments of the population.

A two-track approach for strengthening consumer organizations could be pursued. First, promoting the coordination (and in some cases, consolidation) of existing groups, through the formation of a federation or network, as is the case in countries, such as Germany and Malaysia. Alternatively, consumer groups could be united under the umbrella of one national consumer organization. This could help combine efforts and **elevate the collective consumer voice** in public and policy discussions. Secondly, a government program could be set up to channel funding, for example to support the implementation of the aforementioned proposed national consumer education program; selected consumer organizations that qualify according to certain criteria could tap into this special funding. As a regional good practice, the model of the Thai Consumer Council could be studied in more depth, which is an organization independent from the government, political parties or businesses and was set up to unite consumer associations across Thailand, as well as pool and direct available government funds to prioritized consumer protection actions and policies. The forthcoming ASEAN Guidelines on Consumer Associations may further provide food for thought based on international experience.

6.3 Monitoring and Enforcement

The cross-sectoral nature of consumer protection warrants careful consideration and scrutiny of interlinkages between different policy areas, as well as the observation of authority accorded by law to different sectoral agencies. It is therefore important to clarify the **jurisdiction** of relevant entities in charge of consumer policy, market surveillance and product quality control, consumer redress etc. Stakeholders in the Philippines would benefit from more transparent and readily accessible information concerning jurisdictional matters. A mapping of mandates could help formalize, where still necessary, responsibilities and procedures within and amongst government agencies, while also publicizing related guidance in a consumer- and business-friendly manner.

To overcome gaps with respect to product testing, facilities should be established not only in larger cities. Additionally, there is a general need for greater **clarity and transparency of business obligations**, also as concerns products imported from other countries. As noted above, this could be tied in with discussions regarding the overhaul of the longstanding law on standards and product safety. Increasing thresholds for fines and stricter sanctions could further be considered in the amendment of existing laws, to increase deterrence of non-compliance.

6.4 Redress

As in many other countries around the world, the Philippines faces challenges when it comes to consumer access to redress. As noted in this Peer Review, there are several reasons for that. One point to be highlighted is the potential of consumer organizations to assist with more prominent claims through **collective or class action**. The examples of other jurisdictions, such as the EU and United States, could be examined to see whether and how the scope of action of consumer organizations in the Philippines could be best expanded in this regard.

On a more general note, the Peer Review identified a need to build additional capacities within the DTI offices to assist consumers in settling disputes with businesses. In order to not overstretch resources on the government side, it would be useful to expand the pool of experts to help take on consumer claims. This could encompass **engaging the wider legal community**, such as *pro bono* lawyers, and/or facilitate the establishment of “consumer clinics” at the law faculties of universities. Finally, rather than looking at more ambitious reforms and capacity building of the judiciary, the DTI and other concerned agencies could consider putting in place a requirement for consumers to first directly seek redress with businesses, through their customer help desks as an initial point of contact, before bringing their case to the government.

The planned establishment of the **PODRS** constitutes an important step into the right direction as it presupposes streamlining related administrative processes and renders advisory services more accessible. Some orientation will be provided in the forthcoming ASEAN Guidelines on ODR, which build on the Feasibility Study for an ASEAN ODR Network completed in 2020. With said PODRS in mind, specialized

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training would be required on online mediation, particularly for DTI officers. It is important that the gradual development of the PODRS keeps in view related regulatory developments on e-courts and legal tech. Last but not least, it is worth noting that a parallel study of the ACCP on needs and gaps related to consumer dispute resolution in the AMS is under way and expected to present additional recommendations.

The following table summarizes the aforementioned recommendations from this Peer Review, referencing the AHLPCP with a view towards addressing the main policy challenges in the Philippines.

Summary of Recommendations

| Area | Challenge | Recommended Actions | Link to AHLP |
|----------------------------|--|---|--------------|
| Policy Formulation | How to modernize the wording of the CAP | <ul style="list-style-type: none"> Reframe the planned amended CAP in a more consumer-centric and rights-based manner | 7, 8 |
| | How to overcome regulatory overlaps according to prevalent laws and implementing regulations | <ul style="list-style-type: none"> Consolidate, where appropriate, existing provisions in the amended CAP (and other upcoming revised or new laws) Devise an overarching government policy, plan or program to guide and coordinate consumer protection actions across sectors and agencies Reactivate and reinforce the Philippine Consumer Network and/or NCAC | |
| Advocacy | How to extend the reach of consumer education efforts | <ul style="list-style-type: none"> Create a nation-wide consumer education program, in a training-of-trainers approach with consumer organizations Utilize innovative media and digital tools | 2, 6 (5) |
| | How to expand the scope of action of consumer organizations | <ul style="list-style-type: none"> Encourage the formation of a nationwide federation (or equivalent) to pool resources and improve access to government support | |
| Monitoring and Enforcement | How to reduce complexities or uncertainties in jurisdiction | <ul style="list-style-type: none"> Publicize information / updates on mandates based on substantive and procedural law | 1, 3 |

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| | | | |
|---------|--|---|-----|
| | How to strengthen the enforcement of product standards on quality and safety | <ul style="list-style-type: none"> ▪ Increase resources (human, financial) and infrastructure for product testing in all parts of the country ▪ Improve legal certainty and transparency regarding business obligations | (8) |
| Redress | How to leverage resources in line with the DTI's "No Wrong Door Policy" | <ul style="list-style-type: none"> ▪ Reach out to the wider legal community for additional consumer assistance and advice ▪ Install the PODRS for more efficient complaints-handling based on streamlined procedures ▪ Initiate representation by consumer organizations in class action | 4 |

Chapter 7: Outlook

As the first ever ASEAN Peer Review on Consumer Protection, this exercise for the Philippines has come with important insights and lessons with respect to substantive and process-related issues. Based on their experience of having undergone the Peer Review process, the Philippines may want to consider volunteering as a peer reviewer for the next AMS.

7.1 Lessons Learnt

Even though the implementation of the Peer Review of the Philippines faced some logistical difficulties, and constraints regarding the continuous involvement of the two peer reviewing AMS, it can also be said to have made a virtue out of necessity in the following ways:

- The advance framing of the assessment according to broad areas of responsibility of the main implementing agency facilitated a more structured engagement and evaluation process. Employing additional tools, such as the stakeholder survey and sectoral clustering of participants in the dialogue events, further helped reduce the complexity of the Guidance Document and rendered the Peer Review more manageable and practical, despite the comprehensive scope of the assessment.
- The establishment of the TWG, although requiring an additional administrative step, ultimately aided with ensuring relevance and links to ongoing reform priorities. It proved instrumental as a sounding board during the debriefing on the draft CAR. As it proved difficult to ensure participation of the peer reviewing AMS in all stakeholder dialogues, the involvement of a regional expert came with an additional ASEAN-centric perspective and learning opportunity.

Moving forward from the Peer Review, the question stands as to how bilateral relations among AMS beyond this initiative could be sustained, for example through staff exchanges or mentoring, and how impulses for further dialogue within and beyond the ACCP may be generated.

7.2 Next Steps

Upon finalization of the EPR and its endorsement by the ACCP, the DTI is set to proceed with the preparation of a national conference to publish and discuss the findings with a wider audience in the Philippines. On occasion of the Consumer Welfare Month in October 2021, the conference is envisaged to draw both local participants as well as international development partners. As such, it is hoped it can raise the visibility and prominence of pro-consumer reforms for the country, with a view to underpinning and accelerating necessary legislative efforts.

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At the same time, during the plenary meeting for this Peer Review, AMS put forward several topics that merit further regional dialogue within the ACCP: (i) approaches to address the impacts of the digital economy; (ii) administrative options for setting up ODR systems, including interfaces with small claims and e-courts; and (iii) the role of consumer protection within the context of post-pandemic recovery. This is in due consideration that mechanisms for consumer protection may need to be attuned to country-specific regulatory requirements, aside from prevailing consumer and business cultures. However, the risks posed to consumer rights in the digital economy are no longer confined to individual jurisdictions. Common enforcement challenges therefore call for continuous international dialogue and multilateral cooperation within ASEAN, and beyond.
