

ASEAN CONSUMER PROTECTION: Essential actions towards a single market

BACKGROUND

For the ASEAN Member States (AMSs) to enjoy healthy economic growth, access to the regional consumer market of 600 million people is important. The economic convergence of AMSs necessitates that member countries work together to ensure that the benefits of convergence flow on to consumers as it does to businesses. Regional economic arrangements such as ‘growth triangles’ will impact on consumers in areas like access to products and services and involve issues of quality and costs, among other things.

Consumer protection is therefore, a priority agenda of the ASEAN Economic Community (AEC) that calls for equal commitment of stakeholders to achieve an equitable single market. Consumers, regulators and businesses need to be further equipped to respond to the impact of globalisation such as greater cross-border purchasing, new market trends, varying consumer demographics and increased use of the internet. The digital revolution is transforming the world in which consumers live.

This Policy Brief highlights the relevant supports and actions required to achieve the desired state of consumer protection in order to foster confidence in the ASEAN marketplace. Consumers who are well protected will have confidence in the business and the economy as they are assured of getting a fair deal and will have access to redress where necessary.

The ASEAN Australia Development Cooperation Program Phase II (AADCP II) commissioned the study on “*Roadmapping Capacity Building Needs in Consumer Protection in ASEAN*” with the primary objectives as follows:

- To develop a capacity building roadmap for consumer protection in AMSs and in the ASEAN region, particularly involving the six selected core consumer areas – product safety and labelling, consumer credit and banking, phone & internet services and e-commerce, environment, health care services and professional services.
- To propose an implementation plan and assessment option for the capacity building roadmap that is applicable nationally and regionally.

CONSUMER PROTECTION: GLOBAL AND REGIONAL BACKDROP

The liberalisation of markets and the creation of multilateral and bilateral free trading agreements between nations have led to a significant increase in the international trade in goods and services. New entrants to the global market from developing economies mean even greater competition that can offer better choices and prices for consumers. Service sector liberalisation through the commitments to the ASEAN Framework Agreement on Services (AFAS) and the General Agreement on Trade in Services (GATS) has pushed for the need of consumer protection, implicated by cross-border movement of consumers through tourism, as well as movement of businesses, workers and professionals.

In many countries, the expanding middle-class increasingly looks to other determinants aside from price in their selection of goods and services. Quality, reliability and safety of products and services become dominant factors in consumers' decisions for purchasing products or using services. Thus, nations that address these issues through effective consumer policy and law, can give themselves a competitive advantage. Countries producing high quality goods and services such as the European Union, the USA, Japan, and Australia invariably have extensive national systems of consumer protection.

Well-working markets are the basis for sustainable improvements in the overall welfare of the community that is necessary for the achievement of the Millennium Development Goals. Underlying this is the necessary development of the technical capacity of government, business and civil society to understand and implement consumer policy and consumer protection (and competition) laws.

AMSs have embraced the significance of consumer protection in their national development plans. Thailand, for instance, enacted its principal Consumer Protection Act in 1979 (Table 1). In 2010, Lao PDR passed its Law on Consumer Protection. On the other hand, Brunei Darussalam, Cambodia and The Republic of the Union of Myanmar have yet to enact similar legislation.

Table 1: Status of Principal Consumer Protection Laws in AMSs

Country	Principal Consumer Protection Act
Brunei Darussalam	Consultation in progress
Cambodia	Being drafted
Indonesia	Consumer Protection Act No 8/1999
Lao PDR	Law on Consumer Protection 2010
Malaysia	Consumer Protection Act 1999
The Republic of the Union of Myanmar	Preliminary discussions in place
Philippines	Republic Act No. 7394 - The Consumer Act of 1992
Singapore	Consumer Protection (Fair Trading) Act 2009
Thailand	The Consumer Protection Act 1979
Vietnam	Ordinance of Protection of Consumer's Interests 1999

The adoption by the General Assembly of the United Nations Guidelines for Consumer Protection in 1985 (expanded in 1999) provides an international regulatory framework for governments to formulate and strengthen consumer protection nationally based on a series of rights, which has been further espoused by Consumers International (Box 1).

Box 1: The fundamental rights of consumers.

1. The right to basic needs
2. The right to safety
3. The right to information
4. The right to choose
5. The right to representation
6. The right to redress
7. The right to consumer education
8. The right to a healthy environment

Built on the regional commitment towards an ASEAN Community by 2015, consumer protection has been strategically framed in the ASEAN Economic Community Blueprint (Box 2) and was affirmed during the Thirty-Ninth Meeting of ASEAN Economic Ministers in 2007, stating *inter alia*:

“Given the significant progress achieved in the integration of ASEAN toward a “people-centred” community, the Ministers agreed that it is timely to promote regional cooperation initiatives that would provide ASEAN consumers with a high level of protection. As such, the Ministers endorsed the establishment of the ASEAN Coordinating Committee on Consumer Protection.”

Box 2: ASEAN ECONOMIC COMMUNITY BLUEPRINT**B2. Consumer Protection**

The building of an integrated economic region with a people-centred approach in this region has made ASEAN mindful that consumers cannot be precluded in all measures taken to achieve this integration. Consumer protection measures are already being developed in tandem with the proposed economic measures to address the already emerging consumer protection.

Actions:

- i. Strengthen consumer protection in ASEAN through the establishment of the ASEAN Coordinating Committee on Consumer Protection (ACCCP);
- ii. Establish a network of consumer protection agencies to facilitate information sharing and exchange; and
- iii. Organize regional training courses for consumer protection officials and consumer leaders in preparation for an integrated ASEAN market.

Source: ASEAN Secretariat (2008)

CAPACITY BUILDING FOR CONSUMER PROTECTION IN ASEAN

Consumer issues cut across many jurisdictions, so protection measures require cross-sector collaboration and expertise in multiple competencies. As the AMSs are at different stages of political, social and economic development, achieving an equitable level of protection for consumers in the region will require a range of strategic capacity building measures. These include policy development, legislation, enforcement mechanisms, financial and human resource development, acquisition of expertise and skills at national and regional level. Thus, the development of the ASEAN Roadmap on Consumer Protection involves multiple levels of capacity building in the 10 AMSs. The “*Roadmapping in Capacity Building Needs in Consumer Protection in ASEAN*” report identifies many priority areas for action. These include:

- Developing and implementing consumer policies, laws and master plans
- Monitoring and enforcement of policies, laws and codes of conduct
- Developing effective redress mechanisms
- Developing and implementing awareness and educational programmes for consumer protection
- Research and development

In addition, specific capacity building needs were also identified in six selected core consumer areas as summarised in Table 2.

Table 2: Consumers' Concerns in ASEAN in Six Selected Core Consumer Areas.

Consumer Areas	Consumer-related Aspects	Consumers' Demands towards safe and sustainable consumption practices
Product Safety and Labelling	<ul style="list-style-type: none"> •Consumer products including food. •Unsafe products (toys and electrical appliances, cosmetics with presence of dangerous chemical substances or heavy metals, expired products). 	<ul style="list-style-type: none"> •Product labels to provide sufficient information. •To ensure that the consumer's safety is not jeopardised. •Information provided on labels and in advertisements is not misleading.
Phone & Internet Services, and E-commerce	<ul style="list-style-type: none"> •Online purchase, rates and charges, access, quality of services. •Increasing demand, limited access, frequent interruptions, slow and unstable internet connections and limited coverage especially in rural areas. 	<ul style="list-style-type: none"> •Improve avenues for lodging complaints and consumer redress (including cross-border redress). •Increase the security in ICT and e-commerce. •Increase competition and strengthen regulatory enforcement mechanisms to ensure lower prices and better services and access for consumers.
Consumer Credit and Banking	<ul style="list-style-type: none"> •Increased reliance on easy consumer credit to finance purchases of non-investment goods and services. •Un-sustainable credit practices (loans; credit card, hire purchase facilities offered by retailers, licensed and non-licensed money lenders, pawn brokers, and cooperatives). 	<ul style="list-style-type: none"> •Regulate interest rates ('mobile money' by high interest lenders), unfair or unclear terms of contracts, hidden costs, and unethical debt collection or repossession methods. •Improve access to credit at reasonable interest rates to vulnerable consumers and curb unscrupulous activities of pawn brokers and unlicensed money lenders. •Increase consumer financial literacy programmes.
Environment	<ul style="list-style-type: none"> •Safe and healthy environment, products or services related to water, energy, noise and air. 	<ul style="list-style-type: none"> •Curb and regulate activities that cause environmental pollution arising from unsustainable consumption and production practices (disposal of household and industrial waste). •Implement a comprehensive legislation and stringent enforcement to ensure consumer protection.
Healthcare Services	<ul style="list-style-type: none"> •Public and private health care services, pharmaceuticals. •Governments reliance on the private sector in delivering healthcare services thereby affecting accessibility of vulnerable groups to quality and affordable healthcare facilities. 	<ul style="list-style-type: none"> •Affordability and accessibility to quality healthcare services for all. •Reduce public dependency on private healthcare services. •Regulate activities and services of private healthcare services through credible quality ranking and standards.
Professional Services	<ul style="list-style-type: none"> •Chargeable fees and accountability with regards to legal and medical professions. •Affordable and reliable medical and legal services are considered an essential area of consumer protection. 	<ul style="list-style-type: none"> •Curb and regulate activities and practices of medical and legal professionals with regards to their conduct, fees, quality of services, credibility and qualifications. •Transparent reporting to increase public awareness and knowledge on unethical professional practices (fraud, dishonest practices, breach of confidentiality, or corruption). •Build awareness of professionals on the rights of consumers.

THE ASEAN ROADMAP AND PRIORITISATION FOR CAPACITY BUILDING NEEDS IN CONSUMER PROTECTION

The economic convergence requires that all AMSs work together towards the high level of consumer protection to ensure that ASEAN consumers will capture maximum benefit from the operation of a single market. To this end, the systematic development of consumer policies, master plans, comprehensive legislation and effective enforcement, just redress mechanisms, and targeted programmes must be pursued. The logical and sequential approach that governments need to adopt takes cognisance of the environment, and vulnerable groups such as women and children.

Clearly much work is required to bring AMSs' consumer protection mechanisms up to wider international standards and to harmonise protection within ASEAN. The Regional Report contains an Implementation Plan to assist this process, and should be consulted in association with this Brief. This Plan includes detailed strategies, recommendations, actions and outputs across a broad set of areas.

As the AMSs indicated at the ACCP Workshop on *Roadmapping Consumer Protection Needs in ASEAN* on 30 November to 01 December 2010 in Kuala Lumpur, the development of a Consumer Policy at national and regional levels is a priority area for action, with those AMSs that have a Consumer Policy to review their policies. Whilst this is a long-term goal, in the interim, it is recommended that AMSs develop and adopt a set of ASEAN Regional Guidelines for Consumer Protection by 2013 (Table 3). All AMSs are recommended to develop national consumer master plans by 2013 and have principal Consumer Protection Law in place by 2015 with provisions regulating cross-border transactions. In relation to the six core consumer areas, it is recommended that AMSs put in place measures to reduce consumer over-indebtedness through the formulation of national laws regulating consumer credit. In addition, it is recommended that AMSs develop a regional framework for a redress mechanism on e-commerce through the establishment of an ASEAN Facility for Consumer Protection.

The roadmap further recommends the establishment of a Steering Committee on Consumer Education in each AMS to guide the development of consumer education through formal and non-formal approaches. It is also recommended that the focus area for advocacy on consumer protection emphasises on the development and empowerment of consumer organisations at the national and regional level, recognised by and engaged with respective AMSs for the betterment of consumers.

The ability for ASEAN to implement the roadmap will depend on three key factors, namely:

1. Institutional structures
2. Human resource development
3. Consumer education and empowerment

Table 3: Consumer Protection Focus Areas and Necessary Actions to ensure Consumer Protection in ASEAN

TIME FRAME	CONSUMER PROTECTION AREAS	ACTION TARGETS FOR ASEAN
2013 All AMSs	ASEAN Guidelines on Consumer Protection	Develop regional framework on consumer protection in AMSs
2015 IMPSTV 2018 BCLMy	Regional Consumer Policy	Create an ASEAN regional mechanism for harmonizing consumer policy in AMS
2014 IM 2018 Other AMSs	National Consumer Policy	Develop appropriate national policies within the framework of the ASEAN Regional Consumer Policy to lay the foundation for a comprehensive consumer protection regime.
2013 All AMSs	Consumer Master Plans	Create a framework that provides the vision, mission, analysis of the national consumer situation and plans for enhancing consumer protection at the national level.
2014 ILMPSTV 2015 BCMy	Principal Consumer Protection Law	Create appropriate legal measures to develop comprehensive consumer protection legislation including cross-border regulatory environment.
2015 ILMPSTV 2017 BCMy	Enforcement – Best Practice Enforcement Blueprint	Raise the level of compliance of consumer protection laws and regulations while establishing inter-agency coordination.
2015 ILMPSTV 2017 BCMy	Redress Mechanisms – legal aid fund	Build an affordable, responsive and speedy system to create a dignified, consumer-friendly environment especially for cross-border transactions.
2013 IMPSTV 2015 BCLMy	Advocacy – improved laws and practices	Support consumer organisations and other stakeholders to bring a national profile to overall improvement in consumer protection.
2013 IMPSTV 2015 BCLMy	Research and Development	Create various institutional platforms in AMSs to undertake research and policy development including educational programmes to strengthen consumer protection.
2013 IMPSTV 2015 BCLMy	Consumer Credit and Banking	AMSs to promote financial inclusion and financial literacy while reducing risk of consumer over-indebtedness
2013 IMPSTV 2015 BCLMy	E-Commerce	Develop an ASEAN framework on CP in e-commerce in relation cross-border redress

B: Brunei Darussalam; C: Cambodia; I: Indonesia; L: Lao PDR; M: Malaysia; My: The Republic of the Union of Myanmar; P: The Philippines; T: Thailand; V: Vietnam

Institutional Structures

Developing and strengthening national and regional institutional structures (Table 4) are important in supporting and enabling the implementation of the Consumer Protection Roadmap. Each AMS needs to build and targets its capacity building activities towards the desired state of institutional structures and system. In addition, a regional initiative for establishing an ASEAN Facility for Consumer Protection (Box 3) will further benefit the AMSs to progress towards economic integration in the region by 2015.

Table 4: Institutional structures to be established and strengthened at national and regional levels to enhance Consumer Protection in ASEAN

Dedicated Consumer Protection Agency	ASEAN Committee on Consumer Protection (ACCP) and CCPID	Consumer NGO Development	Women and Consumer Protection	Protection of Children as Consumers
<ul style="list-style-type: none"> • Provide resources (human and financial through budget allocation). • Enhance capacity for inter-agency coordination and enforcement 	<ul style="list-style-type: none"> • Develop a Strategic Plan for ACCP for 2012 - 2015 to empower ACCP to achieve the goals and undertake its functions effectively. (includes a SWOT Analysis of ACCP, functions, resource mobilization, networking capacity, etc.). 	<ul style="list-style-type: none"> • Mandate through legislation the recognition and development of consumer organisations at the national level. • Engage with regional and international NGOs such as the Southeast Asia Consumer Council (SEACC) and Consumers International (CI). 	<ul style="list-style-type: none"> • Develop an ASEAN Policy on Women as Consumers. 	<ul style="list-style-type: none"> • Develop an ASEAN Policy Framework on the protection of children as consumers.

CCPID: Competition, Consumer Protection and Intellectual Property Rights Division (ASEAN Secretariat)

Human Resource Development

Governments in the AMSs to develop and adopt a comprehensive strategy designed to ensure an adequate pool of personnel who:

- are competent to draft consumer protection laws and regulations;
- have sound technical expertise in areas in which consumer protection is necessary, such as in testing of food and pharmaceuticals, e-commerce, banking, standards development;
- are competent to conduct awareness building and training programmes for different consumer segments, especially for those in rural areas, urban slums and children. At the same time there should be sufficient consumer protection personnel who are able to develop effective training and education modules for use in formal and non-formal education, in newly emerging aspects of consumer protection;
- have the technical competence to develop and operate a consumer complaints hotline; and , aptitude and interpersonal skills for networking and collaboration with various relevant agencies and consumer organisations.

Consumer Education and Empowerment

In order to work well, markets need effective mechanisms to promote and protect consumer rights. Developing the skills of consumers to improve their understanding of goods and services will contribute to increased confidence and promote healthy competition. This needs to be undertaken through consumer education and empowerment programmes which are forward-looking whilst addressing the concerns of sustainable development.

Box 3: ASEAN FACILITY FOR CONSUMER PROTECTION

The setting-up of an ASEAN Facility for Consumer Protection (AFCP) will have multiple benefits for AMSs who are at different stages of economic and social development. This is especially significant in view of the rapidly approaching target of regional economic integration by 2015. The benefits of establishing the AFCP range from resource maximisation to sharing of best practices in consumer protection, and additionally will pay dividends by catalysing regional harmonisation processes. In particular its existence and ability to provide training and advice will be the key to assisting those AMSs that currently have under-developed systems of consumer protection.

Some selected core functions of the facility would be:

- Create and maintain regional database of:
 - ❖ All ASEAN organisations and experts within and outside ASEAN involved in consumer protection
 - ❖ Training courses and other professional continuing education opportunities available
 - ❖ All product standards adopted by each AMS
 - ❖ Product bans and recalls, including international and regional hazardous goods notifications
 - ❖ National legislation and regulations related to consumer protection
 - ❖ Industry codes
 - ❖ Key legal cases – both successes and failures
 - ❖ Data on consumer injuries
 - ❖ Bibliography of relevant literature and other research material
 - ❖ Collection of consumer education and awareness material
 - ❖ Best practice for standard forms of contracts
 - ❖ Collections of best practice materials from within the region and internationally
- Provide an internet discussion and advice networking facility
- Provide advice on:
 - ❖ Product safety assessments made outside ASEAN
 - ❖ Best practice programmes in ASEAN and other countries
 - ❖ Policy, legal and programme issues
 - ❖ Recommendations for desirable changes to laws
- Organise/provide training courses and other capacity building services e.g. placing expert advisors with agencies
- Maintain in-house experts
- Develop education and awareness material in ASEAN languages
- Issue product safety alerts
- Provide product testing on safety, energy efficiency
- Register products for ASEAN market
- Operate cross-border dispute resolution facility

CONCLUSION

The AADCP II Project on “*Roadmapping Capacity Building Needs in Consumer Protection in ASEAN*” makes a substantial contribution to the means for achieving a healthy consumer market in the region. The Project has identified issues requiring address, as well as positing a comprehensive range of strategies and actions that will elevate the status of consumer protection throughout ASEAN. Whilst some of the recommendations are far-reaching, many of them are achievable in the medium term.

Implementation of the strategies and recommendations set out in the Roadmap will go a long way to bringing AMSs into parity with international norms for consumer protection. In so doing, not only will consumers within the ASEAN region benefit from better protection, but the status of AMSs’ goods and services will also be considerably enhanced.