



**Australian
Aid** 



Project on Strengthening Technical Competency for Consumer Protection in
ASEAN

Professional services

Final version, 21 December 2015



The overall objective of the project is to "enhance AMS with effective capacities to adopt and implement consumer protection laws at the national level". The project should build/strengthen capacity of government agency personnel through the design, development and delivery of training programs, modular components and materials, focusing on technical requirements provisionally involving consumer concerns and demands in 6 core areas, as identified in the AADCP II Project Report on "Road-mapping Capacity Building Needs in Consumer Protection in ASEAN" (AADCP report) in 2011. These areas are: 1) Product safety and labelling; 2) Phone and internet services, and e-commerce; 3) Consumer credit and banking; 4) Environment; 5) Healthcare services; and 6) Professional services. For further information about the project, please contact Mr. Pierre Horna, Manager of the Project on Strengthening Technical Competency for Consumer Protection in ASEAN at pierre.horna@unctad.org

The module was drafted by Mr. Allan Asher (Australia). This project is under the overall substantive guidance and project backstopping of UNCTAD and the ASEAN Committee on Consumer Protection (ACCP). Our special thanks to the ASEAN Secretariat for an excellent partnership and the AADCP II for the trust given to UNCTAD in executing the present project.



Table of Contents

Overview and summary of the module.....	5
I. Introduction.....	7
(1) Learning objectives and outcomes.....	7
(2) The context for the project.....	7
(3) Information sources.....	8
(4) Conclusions of Country Reports on Road Mapping Capacity Building Needs	8
(5) Roadmap issues with respect to Professional Services	11
(6) Assessment questions.....	14
(7) Further Reading.....	14
II. Substantive Consumer Protection Issues.....	15
(1) Learning objectives and outcomes.....	15
(2) Issues identified in Road Mapping Report.....	15
(3) Assessment questions.....	19
(4) Further Reading.....	19
III. Pre Market Intervention/Protection.....	20
(1) Learning objectives and outcomes.....	20
(2) Regulation and licensing of professions	20
(3) Market Surveillance.....	21
(4) Consumer Fraud and Deception.....	22
(5) Assessment questions.....	22
(6) Further Reading.....	22
IV. Post Market Intervention/Protection.....	23
(1) Learning objectives and outcomes.....	23
(2) Limitation of the Investigation and Enforcement.....	23
(3) Identifying and sharing best practice	24
(4) Investigation by regulatory bodies	25
(5) Evidence and Information.....	26
(6) Substantive Investigations.....	28
(7) Assessment questions.....	28
(8) Further Reading.....	29



V. Redress Mechanism.....29

(1) Learning objectives and outcomes.....29

(2) Redress Models.....30

(3) Finding Best Practice for each AMS.....31

(4) Internal Complaint Handling Model for professional service in AMS.....32

(5) Assessment questions.....34

(6) Further Reading.....34

VI. Management of consumer protection tools for professional services35

(1) Learning objectives and outcomes.....35

(2) ASEAN Professional Association for Consumer Protection.....35

(3) Cross border complaints management.....36

(4) Best practice regulation of medical and legal professional services37

(5) Assessment questions.....40

Appendix I.41
Country Specific Issues in Professional Services from Road mapping Study

Appendix II.64
Action for future ASEAN consumer protection measures



Overview and summary of the module

Consumers of the services of legal and medical practitioners in ASEAN Member States (AMS), experience differing levels of protection depending not only on which country they live in but where in the country they live. This project seeks to provide training for Officials responsible for the regulation of professions with a view to improve standards of practice and enhance the welfare of consumers generally.

The context for the Strengthening Technical Competency for Professional Services project is that even the freest of markets requires a framework of principles and rules to operate effectively and in the interests of consumers. Such procedures should take into account the needs of low-income consumers. Governments should also encourage all enterprises to resolve consumer disputes in a fair, expeditious and informal manner, and to establish voluntary mechanisms, including advisory services and informal complaints procedures, which can provide assistance to consumers

Government agencies involved in consumer protection require specific expertise and knowledge in the workings of consumer protection mechanisms. This Module aims to strengthen capacity of government agency personnel through the design, development and delivery of training programs in relation to Professional Services, as well as soft skills required to facilitate customer redress

The module includes a summary of current rules and practices for registration and discipline of medical and legal practitioners around ASEAN. Gaps in compliance, consumer information, and best practices were noted and areas for strengthening implementation mechanisms were identified. Material is presented which will enable better enforcement of laws through investigation of breaches.

The module concludes that, unlike most other areas of consumer complaint, regulation of professional service providers and the range of remedies available to consumers is quite limited. In a number of AMS, the outstanding problem is access to medical and legal services. However, issues of the right to redress also exist. Consumer redress mechanisms are an essential element of consumer sovereignty and an integral part of an effective marketplace. For example, Small Claims Courts, Consumer Claims Tribunals, Mediation Bureaus, and Complaints Centres are redress mechanisms that are designed to be easily available to consumers in the legal system.

Challenges in effective implementation of enforcement and redress mechanisms delivering justice to aggrieved consumers is the objective of the module. Competent and well trained officials to administer current laws and design and implement new ones is a necessary prerequisite to enhancing the welfare of ASEAN consumers in relation to professional services.

This training module, addresses consumer protection issues arising in relation to professional services, however, there are cross cutting issues which are also included. Strategies, recommendations and actions for professional service are formulated within the framework of the UN Consumer Protection Guidelines.

The training module incorporates a detailed summary of the general mechanisms for regulation of legal and medical practitioners throughout ASEAN. In addition, the training module draws extensively from the road mapping study which identified specific consumer protection issues which arise in various AMS in relation to providers of medical and legal



services. A condensed version of the issues which arises used as the basis for the training module and significantly underpins the models for internal complaint handling and external redress systems which form a substantial appendix to the training module.

To be of most use, this module will need to be translated into the community languages of the AMS who plan to use it. It is for this reason that local information has been included together with ASEAN wide observations and facts.

Checklists for best practice regulation are provided as are guidelines for selection of internal complaint handling and external redress schemes.



I. Introduction

(1) Learning objectives and outcomes

This section of the Train- the-Trainer module introduces the broader policy context for consumer protection in professional services. International and ASEAN policy measures for delivery of professional services are described as is the important role consumer affairs agencies and policy instruments. The section identifies capacity building needs and lists key principles which form part of the module

Background information from the road mapping study is presented in outline of professional services regulation in ASEAN.

Following completion of the train-the-trainer sessions, participants should be able to:

1. Explain why market systems are not infallible and why even the freest of markets requires a framework of principles and rules to operate effectively in the interests of consumers
2. The key principles in the development of the regulation of medical and legal professional services in ASEAN
3. Outline and summarise the key conclusions of country reports from the Road Mapping Capacity Building Needs Study
4. Articulate measures taken by ASEAN to create the more effective supply and regulation of professional services in ASEAN
5. Identify those elements of the ASEAN medical and legal regulatory agendas which intersect with consumer policy
6. Nominate key professional services consumer protection goals in ASEAN
7. List the key principles in the development of the training module?

(2) The context for the Strengthening Technical Competency for Professional Services project

1. The context for the Strengthening Technical Competency for Professional Services project is that even the freest of markets requires a framework of principles and rules to operate effectively and in the interests of consumers. Under the UN Guidelines for Consumer Protection which have since 1985 been a significant source of policy and practice within ASEAN, governments should establish or maintain legal and administrative measures to protect consumers. In particular, the guidelines call for measures to enable consumers or, as appropriate, relevant organisations, to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible. Such procedures should take into account the needs of low-income consumers. Governments should also encourage all enterprises to resolve consumer disputes in a fair, expeditious and informal manner, and to establish voluntary



mechanisms, including advisory services and informal complaints procedures, which can provide assistance to consumers. Last but not least, information on the existing redress mechanism and procedures should be made available to consumers.

2. To be able to do this, staff of government agencies involved in consumer protection require specific expertise and knowledge in the workings of consumer protection mechanisms. This Module aims to strengthen capacity of government agency personnel through the design, development and delivery of training programs in relation to Professional Services, as well as soft skills required to facilitate customer redress. A needs assessment has been conducted to design the training program, which will include two specific modules: a basic module to answer the need of the sub-group countries, and an advanced module for other ASEAN Member States. The program has been designed and formatted to be generic yet easily adaptable for country-specific context and easily replicated. Validation of the scope and methodology of training program will be undertaken at a workshop to be held in Jakarta Indonesia in July 2015. This will be followed by 2 full scale training events at a time and place to be agreed with ASEAN.

(3) Information sources

3. Information used in the preparation of this training module draws extensively on:
 - Country Reports on Professional Services which are incorporated in the Road Mapping Capacity Building Needs in Consumer Protection in ASEAN
 - Policy Brief: ASEAN Consumer Protection essential actions towards a single market
 - Annotated outline of Manual Training Modules
 - Responses to Strengthening Consumer Protection in ASEAN. Questionnaires for Stakeholders Dealing with Professional Services (UNCTAD, Global Compal, Australian Aid)
 - Models for Consumer Complaint Handling Systems in ASEAN Member States
 - Other ASEAN documents

(4) Conclusions of Country Reports on Road Mapping Capacity Building Needs

4. According to the executive summary of the Study on Road Mapping Capacity Building Needs in Consumer Protection in ASEAN, leaders have declared that:

“A globalised and liberalised economic environment poses further challenges for consumers, policy makers, regulators and businesses in dealing with emerging phenomena such as new market trends, digitalised transactions, and the impact of climate change, varying consumer demographics and growing cross-border activities. To achieve an equitable level of protection for consumers, the AMS require a range of strategic capacity building measures. The main components of this consumer protection strategy include institutional structures, legislation, enforcement, and human resource development, acquisition of expertise and skills and regional planning for harmonisation in a single market.”



5. In developing a consumer protection strategy, the Competition, Consumer Protection, IPR Division (CCPID) of the ASEAN Secretariat commissioned a comprehensive regional study seeking to identify the state of consumer protection in AMS, and proposing a roadmap for capacity building in consumer protection. The analysis shows that as the economies of the AMS enjoy healthy growth, progress has been made in enhancing consumer protection in terms of governance, institutional development and programmes. The findings of the study assisted in assessing and prioritising needs for capacity building in consumer protection in selected areas in order to develop a Roadmap towards the project's objectives.
6. With dynamic growth and regional integration, consumers now have greater access to products and services. Further, the digital world is transforming the way consumers purchase and consume products and services. There is a need to develop the technical capacity of government, business and civil society to understand and implement consumer policies, master plans and consumer protection and competition laws. Consumer protection agencies have to be equipped with new competencies to implement programmes and activities to address these concerns. AMSs have achieved several milestones in the development of consumer protection laws such as a Consumer Protection Act or are in the process of enacting one. The AMSs are taking various measures to ensure that their consumer laws are reviewed and new laws enacted. Most of these laws are explicitly or implicitly based on the United Nations Guidelines for Consumer Protection 1985 (expanded in 1999). To enhance consumer protection, the study identifies a number of capacity building needs: developing adequate consumer protection laws and regulations, effective and speedy redress mechanisms, better inter-agency coordination, improving safety standards for products and services, increasing the capacity of officials involved in consumer protection work, upgrading information dissemination on consumer protection issues, developing awareness and education programmes, establishing local consumer organisations and monitoring compliance of codes of conduct.
7. Gaps in compliance, information, best practices and areas for strengthening implementation mechanisms were identified in six core areas of product safety and labelling, consumer credit and banking, phone and internet services and e-commerce, environment, healthcare and services as well as in professional services.
8. This training module, addresses consumer protection issues arising in relation to professional services, however, there are cross cutting issues which are also included. Strategies, recommendations and actions for professional service are formulated within the framework of the UN Consumer Protection Guidelines.
9. A particular feature of the services sector within ASEAN is that constituent services, been largely closed to providers from outside the AMS. Unlike trade in goods, both the regulation and practice of services has been and remains highly respected. Nonetheless, professional services will be significantly liberalised providing both new opportunities for consumer welfare but also increased need for measures to protect the interests of consumers. To enable the movement of skilled workers and professionals, eight Mutual Recognition Agreements are being made operational in stages.
10. This paper addresses capacity building issues raised in the Roadmap report and concerns found in relation to professional services provided by medical practitioners and lawyers. Capacity building in this context means the ability to adjust policies and



regulations, to reform institutions, to modify working procedures and coordination mechanisms, to increase the skills and qualifications of people, to change value systems and attitudes in a way that meets the demands of implementing an effective consumer protection regime in ASEAN. Capacity building, however, is broader than training since it includes an emphasis on an overall system or environment in which individuals, organisations and societies operate and interact (UNDP, 1998). The United Nations Development Programme (UNDP) has defined “capacity” as the ability of individuals, organisations and systems to perform functions effectively, efficiently and sustainably (UNDP, 1998). Based on UNDP (1998), capacity for consumer protection exists at three different levels:

- At the “Systems” level – includes policies, legislation, standards, that provide a framework for consumer protection, as well as the mechanisms for management, enforcement, communication and coordination among the different organisations involved.
- At the “Organisational” level – the mission structure, operational procedures of organisations involved in consumer protection in addition to their financial and human resource, information resources and infrastructure.
- At the “Individual” level – knowledge, skills, competencies, and experience in consumer protection.

11. Key principles in the development of the Training Module are:

- Protection: Consumers should be protected from unfair practices.
- Responsibility: Transparent legislation in addition to effective consumer programmes to enable consumers to have sufficient information in order for them to exercise their responsibilities.
- Enforcement: There should be prompt and efficient enforcement of legislation to deter breaches of the consumer protection laws by businesses.
- Change: new and emerging consumer issues are identified so that legislation is updated and consumers have access to relevant information on these issues in order to make informed choices
- Competition: Free and open competition is generally beneficial for consumers and Government regulations and legislation help to ensure a fair environment in the marketplace for consumers and businesses.
- Representation: Legitimacy for representation by non-governmental consumer organisations must be recognised including the right to association.

12. With particular reference to health services, AMS governments have set themselves the goal to progressively liberalise trade in health services (including the registration and practice of foreign born professionals) in the region. From an economic perspective, opening healthcare markets promises substantial economic gains. Yet it may also intensify existing challenges in promoting equitable access to healthcare. However, liberalising trade may make domestic policy reforms more critical. It may help focus



policymakers' minds and create new opportunities for improving affordable access. But it may also lead to outcomes from which only the better-off will benefit.

13. In identifying aspects of professional services which require attention, the Road mapping report considered existing gaps and deficiencies in the current operating context of consumer protection so that capacity building needs could be identified. The gaps were then translated into the areas for capacity building that were recommended in order to attain the desired outcomes. The desired outcomes at the ASEAN level were benchmarked in tailoring the different levels of needs and capacities of the AMSs in implementing policies and practices in relation to professional services

(5) Roadmap issues with respect to Professional Services

14. According to the roadmap report, professional medical services are regulated by similar legislation in all the AMS. They generally cover the following:

- Medical Registration Acts
- Registration of medical practitioners
- Establishment of a Medical Council which governs the activities of medical professionals, with powers to suspend or revoke registration and impose financial penalties
- Powers to suspend or revoke registration and impose financial penalties Traditional Medicine Practitioners Registration Act
- Registration of traditional medical practitioners
- Establishment of Traditional Medicine Practitioners Board with powers to suspend or revoke registration and impose financial penalties

15. Professional legal services are regulated by similar legislation in all the AMS, such as the Legal Profession Act, 1987 in Brunei Darussalam. These laws have provisions such as:

- Registration of legal practitioners
- Establishment of a professional association of legal practitioners (e.g. Bar Council) by statute which regulates the activities of legal practitioners.
- Determination of costs (fees) to be charged for common services provided by legal practitioners.

16. Unlike most other areas of consumer complaint, regulation of professional service providers and the range of remedies available to consumers is quite limited. In a number of AMS, the outstanding problem is access to medical and legal services. However, issues of the right to redress also exist. The right to redress means the right to a fair settlement of just consumer complaints. Consumer redress mechanisms are an essential element of consumer sovereignty and an integral part of an effective marketplace. For example, Small Claims Courts, Consumer Claims Tribunals, Mediation Bureaus, and Complaints Centres are redress mechanisms that are designed to be easily available to consumers in the legal system.

17. Challenges in Effective Implementation of Redress Mechanisms Delivering justice to aggrieved consumers is the objective of a redress system. However, the existence of

redress mechanisms by themselves does not ensure that consumers will have access to redress. During the course of the Road Mapping study a number of obstacles to redress mechanisms by consumers, were identified. Among the main challenges in the effective implementation of redress mechanisms in the AMS are the following:

- Lack of awareness among consumers on laws that provide for consumer redress
- Difficulty to access avenues for redress e.g. relevant government agencies, consumer groups, business associations or professional organisations as most of these agencies or organisations involved in consumer redress are urban based.
- Procedures for filing complaints are technical and time consuming.
- Assistance from voluntary organisations is not easily accessible.

18. To help in overcoming these challenges, this module focuses on training needs in relation to consumer protection in professional services in the following areas for the ASEAN region:

- Developing Consumer Policies, Framework and Laws
- Implementing Consumer Protection Policies, Framework and Laws
- Enforcing and Monitoring of Consumer Laws and Codes of Conduct
- Establishing and Managing Effective Redress Mechanisms
- Implementing and Evaluating Consumer Protection Programmes and Mechanisms
- Developing and Implementing Awareness and Educational Programmes for Consumer Protection
- Undertaking Research and Development
- Implementing Training Programmes

19. Capacity building in conducting training is a theme that runs across the Road Mapping report. Since consumer protection is a relatively new developmental area, many consumer protection agencies in the AMSs have limited exposure and experience in dealing with consumer issues. The need for training is felt in two areas namely:

- in understanding consumer issues, laws, institutions etc. and
- in enhancing knowledge in the technical subject matter of the professional services provided
- For example, Cambodia has identified the need for assistance in training staff to implement and enforce consumer protection laws and programmes.
- In the case of Lao PDR, the relatively new Division of Competition and Consumer Protection in the Ministry of Industry and Commerce, relies on assistance from NGO's and foreign governments for training, including that of trainers, while the Ministry of Public Health requires expertise to carry out analysis of food and drugs.
- Similarly, Thailand, Vietnam, Cambodia have indicated human resource as important capacity gap. In particular, a strong need for capacity building has been expressed for training on consumer issues.



20. With an expanding ASEAN middle class, the professional services offered by medical and legal practitioners have become important for consumers. Many common transactions make use of the services of legal practitioners, for example, in drawing up contracts of sale and purchase, in settling disputes, in transferring properties and inheritances, family and domestic issues and in dealings with insurance companies. However, many consumer protection regimes exempt professional services from regulation as they are not seen as commercial in nature.
21. The common remedy for medical negligence cases throughout the ASEAN region and indeed around the world is the civil courts. The medical and legal professions are governed by their respective codes of ethics. Nevertheless, consumers do encounter problems such as fraud, dishonest practices, breach of confidentiality, or corruption in their transactions with these professionals. Consumers may file complaints against doctors and lawyers with the National Medical Councils or against lawyers, with the Disciplinary Boards of the legal profession.
22. Professions are typically subject to the scrutiny of regulatory bodies for licensing, certifications, examination, ethical codes and promulgation of standards and discipline. The main consumer complaints against professional services in AMSs are fraud and dishonest practices, exorbitant charges, non-itemised billing, insufficient mechanisms to notify consumers of blacklisted or unlicensed practitioners and no redress mechanisms for legal misconduct and negligence except through the court system. The growth of telemedicine as a channel for healthcare delivery has raised concerns over issues of privacy, security, fraud and abuse by various parties.
23. A number of recommendations made in the Road Mapping report will be drawn upon in this training module they are:
- Relevant National laws which provide protection for consumers for services including medical and legal. It is generally the case that medical and legal services are not covered by consumer protection laws: rather they are covered by registration and discipline laws
 - Independent health complaints authorities.
 - Efficient and effective redress mechanisms for consumers to obtain justice in medico legal issues.
 - Consumer representation in regulatory bodies responsible)
 - Review the professional codes of conduct for the legal and medical professions to enhance consumer protection.
 - Establish legal aid centres for consumer protection cases particularly for the vulnerable in all AMSs.
 - Include consumer representation in the Ethics Committees of the Medical and Legal professions, and in regulatory bodies.
 - Develop mechanisms for the speedy redress of medical negligence.
 - Establish a Task Force to study the inclusion of consumer protection measures for telemedicine in codes of conduct governing the medical and legal professions. The Task Force should also examine redress mechanisms for consumer cases related to telemedicine.



(6) Assessment questions

1. In most AMS, governments are relying for expansion in supply of lawyers and doctors on the free market. Explain why even the freest of markets requires a framework of principles and rules to operate effectively in the interests of consumers?
2. What are the key principles in the development of the regulation of medical and legal professional services in ASEAN?
3. Outline and summarise the key conclusions of country reports from the Road Mapping Capacity Building Needs Study?
4. Articulate measures taken by ASEAN to create a more effective supply of and regulation of professional services in ASEAN?
5. What means are available for pursuing a question of medical or legal negligence in your AMS?
6. Identify those elements of the ASEAN medical and health regulatory agendas which intersect with consumer policy.
7. Nominate key consumer protection goals in ASEAN?
8. What are the key principles in the development of the training module?

(7) Further Reading

1. Blueprint for the ASEAN Economic Community ASEAN 2015
2. Road – Mapping Capacity Building Needs in Consumer Protection in ASEAN (AADCP II 2010)
3. Country Reports Road – Mapping Capacity Building Needs in Consumer Protection in ASEAN (AADCP II 2010)
4. ASEAN Mutual Recognition Arrangement on Medical Practitioners. ASEAN Secretariat 2009
5. The Regulation of Professional Migration in ASEAN Chris Manning ANU (undated)
6. Global Health Action, The ASEAN Economic Community and Medical Qualification 2014
7. Are Indonesian physicians ready for ASEAN economic community? Jakarta Post December 6, 2014

II. Substantive Consumer Protection Issues

(1) Learning objectives and outcomes

This section of the train the Trainer module identifies substantive consumer protection issues in the delivery of professional services in ASEAN member states. It provides a framework for analysis of consumer issues, provides recommendations for future action and identifies the importance of empowering consumers in the development of effective markets professional services.

Section highlights the importance of technical competency and institutional capacity for consumer bodies and draws on the ASEAN economic community blueprint to identify priority areas for action in professional services.

Following completion of the train the trainer sessions, participants should be able to:

1. Enumerate what is according to the ASEAN Economic Community Blueprint, the action needed for regional training courses for consumer protection officials
2. Enumerate barriers to achieving the goals of the blueprint in ASEAN
3. List and discuss the priority areas for action in professional services in ASEAN
4. List the top five generic areas of concern in relation to professionals in their AMS
5. List the top five actions required to resolve concerns about professional services in their AMS
6. Articulate a framework for analysis of consumer issues in professional services delivery
7. Identify and express priority areas for action in relation to professional services including:
 - a. developing and implementing consumer policies, laws and action plans
 - b. monitoring and enforcing of policies, laws and codes of conduct
 - c. developing effective redress mechanisms
 - d. developing and implementing awareness and education programmes
 - e. undertaking research and development
8. Outline and discuss the limitations in available data and different stages of development of policy and regulation in relation to professional services throughout the AMS
9. Contrast and restate elements of consumer centred approach to professional services regulation
10. Nominate strategies for empowering consumers in improving delivery of professional services
11. Analyse barriers to implementation of wider access to legal and medical services

(2) Issues identified in Road Mapping Report

- 24. Throughout the developed world consumer policy and protection agencies play a vital role in making markets work in the interests of consumers. It is therefore essential that the agencies assigned the task of licensing and regulating the professional services provided by doctors and lawyers, possess adequate technical competencies and institutional capacity to achieve their goals.**



25. The ASEAN Economic Community Blueprint calls for action with regional training courses for consumer protection officials and consumer leaders in preparation for an integrated ASEAN market. According to the Blueprint:

“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 contributes to increased confidence and promotes healthy competition. This needs to be undertaken through consumer education and empowerment programs which are forward-looking whilst addressing the concerns of sustainable development”¹.

26. Empowered consumers and effectively competitive markets are a necessary but not sufficient condition for the attainment by Member States (AMS) of the ASEAN Economic Community (AEC). Achieving an equitable level of protection to 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. The Road mapping capacity building needs in consumer protection in ASEAN report identifies priority areas of action in relation to professional services. These include:

- developing and implementing consumer policies, laws and master plans
- monitoring and enforcing of policies, laws and codes of conduct
- developing effective redress mechanisms
- developing and implementing awareness and educational programs that consumer protection
- research and development²

27. As a result of detailed research and extensive in-country engagement it is clear that AMS are at different stages of political, social and economic development. This means that the policies, capacities and competencies of consumer agencies are quite different and a careful and sophisticated approach will need to be taken to identification of training opportunities and needs to ensure success and sustainability. This module on professional services recognizes the need to validate the core areas for training, provide options for impactful training delivery, to test and evaluate training models and to leave behind a powerful, accessible toolkit for future implementation.

28. The Road mapping report identified a wide range of specific issues in relation to the professional services medicine and law in particular AMS. This table extracts a range of generic issues and actions required and concomitant crosscutting issues applicable to all AMS. The country reports which appear as an appendix to this module provide more specific information in relation to each AMS.

¹ .Road-Mapping Capacity Building Needs in Consumer Protection In ASEAN (AADCP II 2010)

² .ibid

	Generic area of Concern	Generic action required
Professional services (Medical and legal)	<ul style="list-style-type: none"> • Access to professional services particularly for low income, disables and rural consumers • Chargeable fees & accountability with regard to professions • Affordable & reliable services • Development and implementation of Codes of conduct for professional service providers • Models for internal complaint handling systems • Models for external complaint handling systems • Misleading or deceptive advertising or marketing of professional services • Unfair contract terms • Schemes for registration and regulation • Strategies for consumer information and empowerment 	<ul style="list-style-type: none"> • Development, implementation and evaluation of consumer protection policies on professional services • Monitoring and enforcement of laws/codes of conduct on professional services • Training on monitoring compliance of codes of conduct and ethical practices related to professional services • Training on best practices in redress mechanisms to handle cases • Awareness and education programs with regards to professional services • Understanding of principles for regulatory intervention • Selection of the most appropriate tools for consumer protection having regard to the stage of development and resources available to consumer authorities • Application of general consumer policy tools to the specific issued raised in the provision of professional services • Skills in advocacy to encourage consumers to be vigilant in protecting their own interests • Engagement with civil society organisations to foster a culture of compliance

	<ul style="list-style-type: none"> • Poor communication with consumers • Consumer access to information and advice • Special needs of women as consumers • Consumers in remote locations and those with disabilities • Dealing with hazards and emergencies • Compliance and enforcement 	<ul style="list-style-type: none"> • Foster engagement with professional associations to ensures rules are apt to protect consumer interests • Encourage co-operation between consumer policy and professional regulatory bodies through-out ASEAN to share best practice and assist less developed AMS • Recognition of the need for and training in plain language communications • Skills in conflict resolution and resilience • Principles for effective complaint resolution and redress • Cross cultural and gender awareness training • Case management understanding and prioritization • Call center techniques • Familiarity with compliance and enforcement tools • Basic principle for effective staff management and institution building • Basic principles of how people learn and facilitating learning. Group management in a learning context and principles of fair, valid and reliable assessment.
--	--	--

(3) Assessment Questions

1. According to the ASEAN Economic Community Blueprint, what action is needed with regional training courses for consumer protection officials?
2. Enumerate barriers to achieving the consumer protection goals of the blueprint in ASEAN
3. What are the priority areas for action in professional services in ASEAN?
4. List the top five generic areas of concern in relation to professionals in your AMS
5. List the top five generic actions required to resolve concerns about professional services in your AMS
6. Articulate a framework for analysis of consumer issues in professional services delivery
7. Identify and express priority areas for action in relation to professional services including:
 - a. developing and implementing consumer policies, laws and action plans
 - b. monitoring and enforcing of policies, laws and codes of conduct
 - c. developing effective redress mechanisms
 - d. developing and implementing awareness and education programmes
 - e. undertaking research and development
8. Outline and discuss the limitations in available data and different stages of development of policy and regulation in relation to professional services throughout the AMS
9. Contrast and restate elements of consumer centred approach to professional services regulation
10. Nominate strategies for empowering consumers in improving delivery of professional services
11. Analyse barriers to implementation of wider access to legal and medical services

(4) Further Reading

1. Road – Mapping Capacity Building Needs in Consumer Protection in ASEAN (AADCP II 2010)
2. Country Reports Road – Mapping Capacity Building Needs in Consumer Protection in ASEAN (AADCP II 2010)
3. Global Health Action, volume 7, Progress towards Universal Health Coverage in ASEAN 2015
4. ASEAN Post – 2015 Health Program Agenda, ASEAN 2015
5. ASEAN Mutual Recognition Arrangement on Medical Practitioners. ASEAN Secretariat 2009
6. The Regulation of Professional Migration in ASEAN Chris Manning ANU
7. Global Health Action, The ASEAN Economic Community and Medical Qualification 2014
8. Are Indonesian physicians ready for ASEAN economic community? Jakarta Post December 6, 2014
9. A Guide to Good Practice – Principles and Practice in Product Regulation and Market Surveillance ISO October 2012
10. A Healthy Caring and Sustainable ASEAN Community joint statement, 12 ASEAN health ministers meeting, 18 September 2014, Hanoi Vietnam



III. Pre Market Intervention/Protection

(1) Learning objectives and outcomes

A critical element in the evolution of comprehensive consumer policies for ASEAN is the incorporation of measures to protect the consumers of the professional services of medicine and the law. As the comprehensive analysis of laws policies and practices in relation to medicine and the law detailed above disclose, all AMS have some form of regulation of these professions.

Schemes in place range from those which are comprehensive efficient and effective to those which are not much in evidence. Throughout the 10 AMS, there is a wide variation in practice reflecting, no doubt, the differential stages of development and capacity within the governments, professions and civil society actors.

The existence in all AMS of some registration system for lawyers and doctors suggests that there are significant opportunities for pro market intervention which has the goal of establishing norms of ethical and competitive behaviour in such a way that consumer complaints are less likely to arise or where they do remedies are made available.

This section of the training module identifies possible pro market interventions which, if implemented, will lead to the gradual lessening of consumer complaints and the enhancement of consumer welfare in these sectors.

(2) Regulation and licensing of professions

29. The use of licensing and regulation to control the practice of law and medicine is extensive throughout ASEAN member states. Unlike other areas of consumer policy covering goods and services, it is not surprising that professional regulation and licensing is seen as the primary tool to address policy issue in the professions. From a policy perspective, the decision to use professional licensing considers whether or not there is a role for government to resolve an issue and if so what type of regulation all licensing requirement will best achieve the desired policy objectives.
30. To ensure the best results, professional licensing requires careful consideration, particularly since there are numerous studies that have examined the potential for professional licensing to cost more in terms of higher prices, reduced competition, and poorer consumer choice and options than some schemes actually achieve in terms of protecting consumers and addressing market failures.
31. In considering the potential usefulness of professional regulation it is important to assess whether or not there is a role for government intervention. While this might seem self-evident to many, the question is critical to ensuring that government only regulates when it must and ensuring that the specific problems that require regulation are identified.



32. The need for government regulatory intervention does not immediately follow from the identification of information deficiencies: information deficiencies are pervasive yet most markets continue to function reasonably efficiently.
33. Key determinants for professional regulation include where consumers lacked information about a service or a product and the consequences of a poor consumer choice as a result of the poor information must be high, the potential remedy the problem must be poor or too costly in the market must not be able to resolve the issue over time.
34. An alternative rationale is that the impact on third parties must be high with limited ability to remedy and no scope for a market solution and where a broad government policy rationale exists with significant consequences in the absence of government intervention, or the ability to remedy the issue is poor and no scope for market solution is available.
35. Professional licensing schemes are a suitable means of dealing with a sector in which substantive consumer protection issues such as misleading advertising, deceptive marketing and unfair contract terms arise. Professional service is an area of high expertise and pro market interventions such as conditional licensing schemes are a useful measure.
36. Following a review of the schemes for licensing and regulation of doctors and lawyers throughout ASEAN, it is clear that the level of effective consumer protection delivered by these schemes varies considerably. In the less developed AMS there is little or no evidence of effective implementation and enforcement of licensing rules while in a number of AMS systems are highly developed and quite successful.
37. The training module will seek to identify elements in licensing schemes which are more likely to assist them in achieving their goals while minimising negative elements. A key determinant in success is the availability of adequate resources and personnel to monitor and enforce scheme rules. Throughout the developed world, licensing schemes depend on close relationship with professional bodies for their administration and typically they take the form of co-regulation.

(3) Market Surveillance

38. It is rare for consumers to know as much about the quality of goods and services as the provider. In any event consumers will rarely have sufficient knowledge prior to choosing a particular doctor or lawyer. In most AMS the relative scarcity of doctors and lawyers ensures that the usual processes of choice are in any event limited.
39. Where consumer decisions are made based on inadequate information about the price or nature of services to be provided consumers may make poor choices and suffer loss or damage. As it is very difficult for consumers to know in advance of a purchase whether or not the services of high-quality – and even in some cases after-the-fact, consumers may not achieve their objectives.
40. Legal and medical services fall into the category of services for which a consumer is obliged to take the quality of the service on trust since he or she may not possess the expertise to determine whether the service has been appropriately supplied.



(4) Consumer fraud and deception

41. Compounding the lack of knowledge or information possessed by consumers about the quality and competence of the legal and medical service providers are problems associated with fraud or deliberate false and deceptive behaviour.
42. In many of the regional reports listed above there was substantial evidence of misleading and deceptive conduct by medical practitioners and lawyers which led to consumers suffering loss or damage.
43. Effective markets and professional self-regulation depends to a large extent on people operating in good faith. Where on the other hand, providers of services deliberately set out to mislead or deceive consumers a higher rationale for intervention exists.
44. In a number of AMS the only remedy for consumers in such cases is the use of criminal fraud statutes which though apparently a strong sanction part almost never replied and so the case for more effective remedies is clearly apparent. Inadequate market surveillance or regulation of doctors and legal practitioners throughout the AMS can lead to considerable losses for consumers.
45. In the case of medical practitioners, if an incompetent position misdiagnosis a patient's illness, this could cause an epidemic which would cause harm to many third parties who are not involved in the original doctor's consultation. In such a case everybody, including even the patient and physician, would prefer the regulation of medical professionals in order to prevent such an epidemic from occurring.

(5) Assessment questions

1. Explain the meaning of premarket intervention?
2. Why is premarket intervention superior to post-market intervention?
3. Give examples of effective premarket intervention in professional services in your AMS
4. Explain the context and modalities for premarket intervention in professional service delivery
5. Discuss and design common forms of premarket intervention
6. Contrast existing consumer protection mechanisms with those of other AMS.
7. Analyse the domestic need for measures in your AMS

(6) Further Reading

1. Risk Assessment for Regulatory System Design UNECE 2012
2. A Guide to Good Practice – Principles and Practice in Product Regulation and Market Surveillance ISO October 2012
3. Road – Mapping Capacity Building Needs in Consumer Protection in ASEAN (AADCP II 2010)
4. Liberalization of the Singapore Legal Sector – ASEAN Law Association 2012
5. The Legal Profession –ASEAN Law Association 2012
6. The ASEAN Way and the Rule of Law. ASEAN 2001
7. Finding the Right Lawyer – Southeast Asia 2011



IV. Post market intervention/protection

(1) Learning objectives and outcomes

This section of the training module describes the rationale and methodology in post market intervention. There is substantial treatment of the principles of investigation evidence however it is noted that in many AMS the primary means for enforcement action against consumer detriment suffered as a result of the provision of legal and medical services is civil court action which is inherently undertaken by individuals not consumer agencies. Nonetheless where breaches of criminal laws or serious offenses occur investigations may be conducted against the conduct of lawyers and doctors as well. Following completion of the training sessions, participants should be able to:

1. Discuss the role of consumer agencies in protecting the interests of consumers of professional services in their AMS.
2. Explain the role of market surveillance in preventing consumer problems in professional services
3. Discuss the merits of pre-and post- market intervention in the context of improving professional services outcomes for consumers.
4. Outline possible post-market interventions to achieve improved consumer welfare in professional services through market surveillance
5. Specify areas for intra-ASEAN cooperation in implementation of **post**-market measures
6. Interpret for local context principles for investigation of breaches of laws and codes governing the conduct of doctors and lawyers
7. Evaluate current measures being undertaken for post-market ASEAN Member States

(2) Limitation of the Investigation and Enforcement

46. Investigation and enforcement by professional regulatory bodies of the rules for admission and for breaches of standards. Sanctions for breaches will range from reprimands through compensation and mandatory retraining programs to disbarment or cancelation of the right to practice by the doctor or lawyer in breach. Other measures to give effect to sanctions include public warnings and in AMS where laws allow, group proceedings or class actions for compensation.
47. As the country reports note, however, there is relatively little evidence of the use of this tool and in the case of the less developed AMS almost none. It remains important for consumer protection that such powers remain in the rule book and that authorities are equipped to use them where necessary. It is also necessary to recognise that resource and personnel constrains mean there will never be sufficient enforcement of such measures.



48. A further limitation of the enforcement model for action against the providers of professional services is that throughout the AMS there is a cultural reluctance to complain. In the Road mapping report it was stated in relation to a number of AMS that consumers prefer to “suffer in silence” rather than make formal complaints about professional service providers.

(3) Identifying and sharing best practice

49. To be effective in the protection of consumers of professional services, officials need to be equipped with adequate skills and resources to monitor and force existing laws as well as to design new policies and rules as circumstances dictate.
50. The Country reports disclose that across ASEAN there are gaps in compliance, information, and best practice or implementation mechanisms for consumer protection in professional services. They derive from a survey, key informant interviews, roundtable discussions in the 10 AMSs and the ASEAN committee on Consumer Protection Workshop 2010.
51. Consumer agencies in the AMS are not the lead government agencies responsible for regulation or consumer protection in the field of professional services. The critical task of the needs assessment in this project was to understand the responsibilities of each agency, to match these to the specific regime for professional services and to determine capacity building requirements for responsibilities they have outside those areas.
52. A number of AMS already possess laws, codes and regulatory schemes dealing with professional services. This training module will identify them and establish effective twinning arrangements of partnerships between those with the competencies and those without.
53. A core function for a consumer agency is effective compliance and law enforcement. Across all of the training activities, agency staffs need to understand the investigation principles and enforcement methodologies without which they cannot gain general compliance with laws and policies.
54. The legislation regulating professional services in AMS is almost always separate to the principal Consumer Protection Act. It will be necessary to discuss related legislation and codes in each AMS need to be assessed to ensure that it provides clear standards for professional services for capacity building. It is expected that, initially, this will not be the case across all AMS.
55. Information sharing and mutual support amongst a community of officials is a key issue in the long-term success of this project. The module will explore the extent to which this project might assist in the development of an ASEAN facility for Consumer Protection which is anticipated in the Roadmap.
56. Candidates in training programs will come from different working environments in different AMS and will have a range of knowledge and skills. These need to be recognised to enable training to meet the needs of the learner and the agency to which they belong.



57. The international community of consumer affairs officials is a strong and growing one. The training module will seek ways to integrate officials from AMS in the training and development programs of professional bodies such as the Society of Consumer Affairs Professionals (SOCAP) and the International Consumer Protection and Enforcement Network (ICEPEN).
58. Most AMS incorporate consumer protection in national development plans. Singapore, Thailand, Malaysia and the Philippines have comprehensive laws while Brunei Darussalam, Cambodia and the Republic of the Union of Myanmar have very recent and basic consumer laws. The module will need to accommodate these differences in consumer policy development.

(4) Investigation by regulatory bodies

59. Country reports from the road mapping study disclose a wide variation throughout ASEAN as to both the degree of regulation and the extent of subsequent enforcement of laws governing admission and practice of the professions of law and medicine. All member states have some registration and enforcement laws but not all have effective mechanisms for their enforcement.
60. Whatever the argued shortcomings of currently enacted laws within each ASEAN member state, it is highly desirable that officials from all AMS are equipped with a framework and skills to detect and take action in relation to breaches of existing laws. Systematic enforcement of existing laws is a precondition to building groups of effective officials and confident consumers. A precondition for that is effective and efficient investigations.
61. An investigation is 'the action of investigating something or someone; formal or systematic examination or research' ref: www.oxforddictionaries.com. The objectives of investigations in the context of consumer protection the objectives of an investigation are to determine whether or not:
- Is it likely that an offence under the relevant consumer protection law has occurred?
 - Is it likely that the relevant consumer protection authority obtain sufficient evidence to prove the offence?
 - Is it likely that the relevant authority can achieve an effective outcome from its investigation?
 - Where does this problem/issue lie in respect of the authority's enforcement priorities and currently available resources
62. While all activities undertaken by consumer protection agencies should be based on appropriate authority and powers, this is even more important in respect of investigations because:
- limited to particular areas of the agency's functions, the authority to investigate may be provided for in one or more locations within the enabling laws or regulations.
 - Enabling laws or regulation are sometimes be worded such that an agency is empowered to investigate consumer 'complaints' rather than suspected contraventions, however detected. Restrictive words may sometimes limit an agency's ability to undertake investigations on its own initiative.



- Sometimes the expected or assumed authority to investigate is absent or unclear. While correction of these types of anomalies or omissions will be a priority for an agency prior to undertaking investigations, this may not always be practical. Sometimes a successful challenge of the agency's power to investigate will provide the proof that the enabling law or regulation do in fact need amending.

(5) Evidence and information

63. In our everyday lives we use information about traders, goods and services, other consumers experiences to help us decide what to buy and from who. We know from common sense and past experience that the information we have is of variable quality. We put more weight on some information because we trust its source and/or because we have other corroborating or consistent information that leads us to a similar conclusion. How we evaluate particular information is likely to vary between people and over time as we learn from our experiences or study.
64. If courts and tribunals are to deliver consistent, predicable and well reasoned justice, they cannot afford to accept and evaluate information in the same informal and variable way that we do as individual consumers. Courts and most administrative tribunals have developed rules and procedures to ensure that the information they consider is most likely to be reliable.
65. There are significant and important difference in the laws and procedures in respect of evidence every jurisdiction. The following are generalised comments and observations and may not reflect the rules and procedures of evidence in your country.
66. There are many types of evidence: the detail of how evidence is classified and described varies between jurisdictions. Evidence most commonly relevant to consumer protection cases include:
- Testimony including: personal appearance, affidavits, statements
 - Documentary including: reports, letters, invoices, receipts, advertisements, official records (such as record of incorporation, registration of business name), customs declaration, leases, certification of compliance with standards
 - Physical including: products such as handsets
 - Expert evidence is evidence provided by an expert on issues requiring detailed scientific or technical knowledge. Expert evidence is opinion evidence. An expert must have knowledge or expertise in a relevant subject area, as demonstrated by his/her qualifications, experience and peer recognition. Expert evidence may include hearsay evidence of a specialist nature, e.g. as to the consensus of medical opinion on the causation of particular symptoms or conditions
 - Opinions based on facts adduced in the case.
 - Circumstantial evidence, i.e. evidence that relies on inferences to connect it to a conclusion of fact. Circumstantial evidence can be relevant as corroborating evidence or to challenge the probative value of other evidence
67. Managing the identification of required evidence, where and how to obtain it, its preservation and presentation are all basic to successful law enforcement. As noted earlier one of the objectives of an investigation is to obtain evidence to prove each



element of the relevant offences. An 'Evidence Matrix' is a practical technique for setting out the evidence required in a systematic way.

68. Evidence may be obtained from any number of sources. In consumer protection investigations evidence is often sourced from:

- complainants
- professionals complained about
- individual consumers and consumer organizations
- individual businesses including competitors of the trader complained about including traditional (bricks and mortar) and online traders (e-traders)
- business associations
- information providers including publishers, media
- service facilitators including Internet Service providers (ISPs) and Mobile phone service providers
- Retailers and manufacturers of mobile phones, modems/routers, computers
- Regulatory agencies responsible for landline, mobile phone, and internet related services and standard setting
- experts
- investigators
- foreign consumer protection authorities: they may be able to provide:
 - evidence relating to the trader, for example incorporation, registration, location, banking, assets, share ownership, previous convictions
 - evidence relating to the traders activities in or originating from their jurisdiction
 - advice on obtaining evidence, for example forensic examination

69. A lot of evidence is obtained voluntarily. However most evidence provided voluntarily is not provided at the instigation of those with the evidence. Identifying sources and persuading them to voluntarily provide the evidence is the job of the investigator.

70. Often essential evidence is uniquely in the possession of those with a strong interest in not providing the evidence to investigators. In many jurisdictions around the world consumer protection authorities have been given powers to coerce individuals and companies to provide information and evidence. Sometimes these powers include the power to:

- require nominated people to attend the relevant authority to answer questions;
- enter nominated premises and seize evidence.

71. Where these powers exist there will also be procedures that the Authority must follow. Typically these procedures will set out:

- the prohibitions in respect of which the powers may be used
- the trigger for the use of the powers, for example when the Authority 'believes' or 'suspects' that the person may have information relevant to a nominated offence.
- the procedure for notifying the party, including the specification of the evidence required
- the penalties for non-compliance.



72. Failure to comply with specified procedures may be result in sanctions against the officers in contravention and the inadmissibility of evidence acquired invalidly.

(6) Substantive investigations

73. The objectives of a substantive consumer protection investigation are to obtain sufficient evidence to:

- Prove:
 - a contravention
 - the incidence of the contraventions
 - the person harmed by the contraventions
 - the nature and level of harm suffered
 - the nature and quantity of ill-gotten gains
- Determine that:
 - information and evidence obtained is inconsistent, or at least not consistent, with a contravention having occurred, and
 - that it is unlikely that further investigation will obtain evidence sufficient to alter that conclusion
 - the information and evidence obtained is consistent with a contravention, but that the circumstance of the case are such that further action is unlikely to achieve a timely, cost effective and useful outcome.

74. Substantive investigations may include the whole range of evidence gathering techniques, including:

- Informal interviews multiple potential witnesses
- Formal interviews multiple potential witnesses
- Surveillance, photographs, recordings
- Obtaining physical evidence
- Obtaining documentary evidence
- Testing physical evidence by third parties
- Recording conversations
- Obtaining external legal advice

(7) Assessment questions

1. Discuss the role of consumer agencies in protecting the interests of consumers of professional services in your AMS.
2. What is the role of market surveillance in preventing consumer problems in professional services?
3. Discuss the merits of pre-and post- market intervention in the context of improving professional services outcomes for consumers.
4. Outline possible post-market interventions to achieve improved consumer welfare in professional services through market surveillance
5. Specify areas for intra-ASEAN cooperation in implementation of **post**-market measures
6. Interpret for local context principles for investigation of breaches of laws and codes
7. Evaluate current measures being undertaken for post-market ASEAN Member States

(8) Further Reading

1. Are Indonesian physicians ready for ASEAN economic community? Jakarta Post December 6, 2014
2. Risk Assessment for Regulatory System Design UNECE 2012
3. A Guide to Good Practice – Principles and Practice in Product Regulation and Market Surveillance ISO October 2012
4. Regulator Perspective Food And Drug Administration Premarket Overview – Post-Market Controls ASEAN Updates
5. ASEAN Mutual Recognition Arrangement on Medical Practitioners. ASEAN Secretariat 2009
6. The Regulation of Professional Migration in ASEAN Chris Manning ANU (undated)
7. Global Health Action, The ASEAN Economic Community and Medical Qualification 2014
8. The Application of Risk Management Principles to Achieve Good Regulatory Practice and Design May 2008 APEC

V. Redress Mechanisms

(1) Learning objectives and outcomes

This section of the training manual introduces the notion of redress schemes in particular explains internal complaint handling and external redress schemes. This section draws extensively on previous work by ASEAN and includes a number of case studies. This section emphasises the goal of enhancing consumer welfare in redress schemes and describes key models. The advice is provided on assessing coproduction and selecting appropriate models

Following completion of the training sessions, participants should be able to:

1. Evaluate models for consumer protection against specifically identified problems for professional service delivery.
2. Articulate the steps which are needed to assess market problems and suitable remedies in their AMS
3. List developments in cross-border or regional redress mechanisms
4. Spell out the goals of regulatory licensing
5. Differentiate the application of models for the state of development and available resources in their AMS
6. Contrast measures taken in their AMS with those of other AMS
7. Analyse existing data from enforcement agencies and complaint handling bodies to determine gaps in consumer protection provision



(2) Redress models

75. In part as a response to the shortcomings of a more extensive investigation and enforcement based approach to dealing with market problems in ASEAN, a project was undertaken to develop more regionally appropriate models to deal with consumer complaints. The project which was completed in 2014 led to the identification of a range of models, case studies and implementation guidelines.

76. Information presented in this section of the training module has been adapted from another ASEAN consumer protection project. There are 4 source documents each of which can be found on the ACCP website. They are

- Assessment Framework for Complaint Handling and Redress Schemes
- Assessment Report on Internal Complaint Handling Systems and External Redress Schemes
- Development of Complaint and Redress Mechanism Models in ASEAN
- Guidelines for Selection of Models

77. The goal of regulatory licensing schemes is to enhance consumer welfare by restricting entry to a profession to those with suitable qualifications and character. However, a pro market scheme will not prevent licensed lawyers or doctors from anti-consumer behaviour and so schemes of post market intervention are also necessary.

78. This section of the training module extracts from the earlier ASEAN consumer protection project, material setting out various mechanisms for post market intervention. The schemes can be applied to a range of markets but in this module they have been tailored for application to medical and legal service professionals.

79. There are many possible models for post market consumer protection in the professional services sphere. The appendix to this module provides guidance on selection and implementation of the best one for each profession in each AMS. The models incorporate the elements from various approaches including:

- ADR
- Ombudsman
- Arbitration
- Mediation
- Group actions
- Cross border access to justice



(3) Finding Best Practice for each AMS

80. As current levels of consumer protection vary amongst AMS and as levels of resource and expertise differ, there is no single model which will suit all AMS. Guidelines therefore set out steps which may be taken to assess the current consumer protection framework of an AMS; and to identify possible steps which, if implemented, will lead to better or best practice levels of protection for consumers of professional medical and legal services.

81. The initial step is to determine the stage of development and implementation of professional regulation and establishment of agencies for implementation which best describes current approaches to regulation of doctors and lawyers.

- Little or no measures for consumer redress
- Basic professional admission/striking off provisions for gross negligence or dishonesty
- Agreement within the jurisdiction on the need to respond to consumer complaints against doctors and lawyers
- Growing consumer pressure with the establishment of complaint and redress schemes
- Professional associations involvement in complaints handling systems and redress schemes
- Government intervention or threats to establish consumer redress schemes
- Creation of industry ombudsman or other industry based schemes
- Best practice complaint systems and redress schemes

82. There is no single model which will suit all AMS in all circumstances as Models have been developed to solve different problems and AMS are themselves different from one another. Each AMS has a different starting place as some have very well developed and implemented complaints systems and redress schemes.

83. The process is a journey to best practice in which current measures to protect consumers of professional services need to be re-evaluated and compared to those in other AMS and suitable reference countries on a regular basis to ensure that once they reach best practice, they remain at that level. With the fast pace of development in ASEAN it would be highly desirable to establish and maintain data bases of measures and experiences to share in relation to Models and their implementation.

84. Progress will depend on many factors, including:

- Stage of economic development

- Regulatory capacity
- Strength of the government sector
- Degree of market development in the AMS
- Presence of an active civil society
- Pressures of competition in ASEAN markets
- Presence of international lawyers and doctors

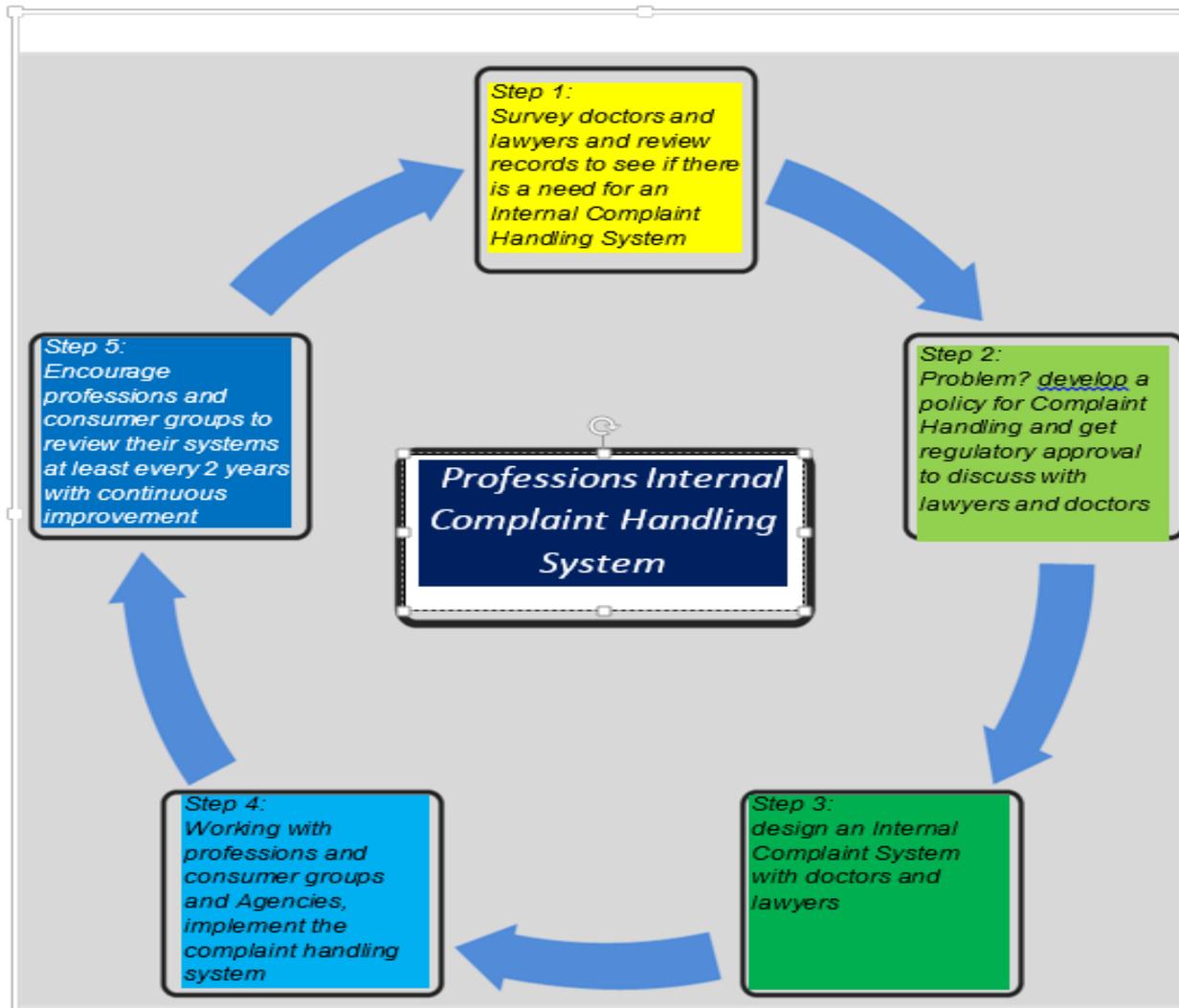
85. The following suggestions will be appropriate for AMS who have little or no current measures in operation up to those with well-developed schemes.

- The first stage of the implementation of internal complaint handling systems for professional bodies is to undertake a survey of members and consumers to determine the existence of and extent of consumer problems
- The survey should seek to assess the adequacy of existing internal complaint handling systems and to cross reference that with government records about complaints from the legal and medical sectors examined.
- In the event that the survey shows current internal complaint handling systems are not present or are inadequate, then further implementation of model one should be considered.
- The second stage is to meet with representatives of government departments responsible for regulation of the professions and the general consumer agency.
- Collect and summarize information about the complaints they have received in these sectors and then meet with professional bodies about complaints handling systems encouraging them to implement ISO 10002 using the collected complaints data as a bargaining tool.
- It may be useful to run workshops on ISO 10002 through the national body responsible for standardisation.
- The government should consider developing and implementing a policy that if legal and medical professional bodies do not have their own schemes which meet the principles and features for external redress schemes developed by an agreed date that they will mandate redress schemes for them.

(4) Internal Complaint Handling Model for professional service in AMS

86. Set out below is a diagram showing the necessary steps in the construction of a scheme to be implemented by the legal and medical profession themselves as a means of reducing the number of complaints which arise in the first place, provide remedies for affected consumers and relieve the State of part of the regulator burden.

Internal Complaint Handling System for Professional Medical and Legal bodies



87. International experience shows that where professions are actively engaged in the design and implementation of complaint and redress schemes, better levels of commitment and outcomes result. For ASEAN such an approach also fits the culture of respect and consensus in which professions operate.



(5) Assessment questions

1. Evaluate models for consumer protection against specifically identified problems for healthcare service delivery.
2. What steps are needed to assess market problems and suitable remedies in your AMS?
3. List developments in cross-border or regional redress mechanisms?
4. What is the goal of regulatory licensing?
5. Differentiate the application of models for the state of development and available resources in their AMS
6. Contrast measures taken in your AMS with those of other AMS
7. Analyse existing data from enforcement agencies and complaint handling bodies to determine gaps in consumer protection provision

(6) Further Reading

1. Models for Internal Complaint Systems and External Consumer Redress Schemes in ASEAN. December 6, 2013 FEMAG
2. Development of Complaint and Redress Mechanism Models in ASEAN: guidelines for the selection and implementation of complaint and redress models December 6, 2013 FEMAG
3. Road – Mapping Capacity Building Needs in Consumer Protection in ASEAN (AADCP II 2010)
4. Liberalisation of the Singapore Legal Sector – ASEAN Law Association 2012
5. The Legal Profession –ASEAN Law Association 2012
6. The ASEAN Way and the Rule of Law.ASEAN 2001
7. Finding the Right Lawyer – Southeast Asia 2011
8. Road – Mapping Capacity Building Needs in Consumer Protection in ASEAN (AADCP II 2010)
9. ASEAN Mutual Recognition Arrangement on Medical Practitioners. ASEAN Secretariat 2009
10. The Regulation of Professional Migration in ASEAN Chris Manning ANU
11. Global Health Action, The ASEAN Economic Community and Medical Qualification 2014



VI. Management of consumer protection tools for professional services

(1) Learning objectives and outcomes

88. Protecting ASEAN consumers from the adverse impacts of providers of professional services who fail to meet reasonable standards is an important yet complex task.
89. This training module commences with a detailed rationale for the protection of consumers of professional services. Even the freest of markets require a framework of principles and rules to operate effectively and in the interests of consumers.
90. This section of the module identifies possible action points through which the listed pre- and post-market mechanisms might remain current. It needs to be borne in mind by all policymakers and consumer protection enforcement agencies that continuous improvement and monitoring of markets is essential to maintain adequate levels of protection for consumers.

This section of the module identifies possible action points through which the listed pre- and post-market mechanisms might remain current.

It needs to be borne in mind by all policymakers and consumer protection enforcement agencies that continuous improvement and monitoring of markets is essential to maintain adequate levels of protection for consumers.

Following completion of the train the trainer sessions, discipline should be able to:

1. Enumerate key measures proposed in previous ASEAN consumer protection projects for future action to enhance the welfare of ASEAN consumers
2. Describe the proposal for ASEAN professional Association for consumer protection and its constituent elements
3. Explain the mechanics of cross border redress within ASEAN in relation to management of complaints against providers medical and legal services supply services across ASEAN borders
4. Able to identify best practice regulation for medical and legal professional services and prioritise measures in accordance with domestic priorities
5. Enumerate elements of best practice check list for regulation of medical practitioners
6. Enumerate best practice check list for regulation of legal practitioners

(2) ASEAN Professional Association for Consumer Protection

81. In order to promote harmony or convergence in the developing policy and implementation of measures for the protection of the interests of consumers of professional services in ASEAN, it is recommended that ASEAN Member States consider the development of an ASEAN consumer affairs professional association made up of:

- individual consumer affairs officials involved in administering consumer protection laws;



- members of consumer groups in ASEAN countries;
- consumer affairs/customer services professionals in business

82. The organisation would aim to encourage strong networking and a cooperative approach to complaint handling and redress sharing ideas so that emerging problems arising out of the creation of borderless markets and technological advances can be dealt with effectively.

83. As currently envisaged, this professional organisation would be independent of government but could have government affiliation. Even though such a body would not be an arm of government, it would be appropriate for governments employing members to support the organisation through various means such as sending officers to an annual conference.

84. The aims of the organisation could include:

- creating an ASEAN network of consumer affairs officials;
- encouraging best practices in consumer policy regulation and administration;
- developing ASEAN consumer protection policies;
- encouraging the development and harmonisation of consumer protection laws;
- encouraging agencies to exchange research,
- opening up training programs to overseas officials and commit themselves to the use of technology for interagency communication;
- advocating cost effective consumer remedies and encouraging business to adopt consumer responsive, market sensitive, mechanisms for dealing with consumer problems.

85. Communication between members could be via a variety of means including an annual conference, regional conferences, regular newsletters, and the Internet.

(3) Cross-border complaints management

86. ASEAN regional facility for cross-border complaints management. Consumer protection is an essential tool in building up a people centred ASEAN economic Community. The ASEAN Economic Blueprint demonstrates that AMS are mindful that consumer interests and welfare have to be taken into account in measures implemented to achieve an integrated economic region.

87. Consumer protection laws ensure fair competition and the free flow of correct information in the marketplace. At present, Brunei Darussalam, Indonesia, Lao PDR, Malaysia, Philippines, Singapore, Thailand, Vietnam and Myanmar have principal consumer protection legislation. Cambodia is expected to have its legislation approved by 2016.

88. Meanwhile, consumer protection elements in these countries are covered by other legislation in order to achieve consumer protection objectives. Consumer protection is a new area of regional cooperation. As initiated under the ASEAN Economic Community (AEC) Blueprint, the ACCP was established in August 2007. The ACCP, and its three w



king Groups, serve as the focal point for the implementation and monitoring of regional arrangements and mechanisms.

89. In order to steer the implementation of initiatives and commitments for the continuous services in ASEAN, a regional government facility on consumer protection is called for as the chair of the working group on Cross Border Consumer Redress, has developed a website on cross border consumer redress for the ASEAN region. The website will serve as the main reference point for matters pertaining to consumer redress, including

- information on basic cross border redress mechanism (handling complaints)
- information on focal point for consumer redress in each AMS
- information on online/hotline access to cross border redress mechanism such as complaint handling and
- information relating to the work of the ACCP

90. As the website for cross-border consumer redress becomes fully operational, it will be an opportune time for AMS to further consider the establishment of a regional consumer protection facility. Such a body could, in addition to coordinating cross-border complaint handling and redress schemes, provide research support and training in very practical areas of consumer agency design, governance and operations.

(4) Best practice regulation of medical and legal professional services

91. It will be apparent from the country reports deriving from the study of regulation of medical and legal practice within ASEAN, the elements of regulation and consumer redress vary considerably.

92. The schedules below represent a checklist for the content of best practice regulation medical and legal practice.

93. The schedules are derived from recent updates to laws in Singapore but they have been supplemented by a review of laws and practices in other ASEAN member states.

94. The intention of the schedules is to provide ASEAN officials responsible for policy or administration professional regulation to assess domestic practices and where is felt appropriate in cooperation with officials from other ASEAN member states to revise and update local rules.

92. Best Practice Check List for Regulation of Legal Practitioners:

- General Conduct Rules
 - ✓ Restriction to practice in one law practice
 - ✓ Supervision of employees and staff
 - ✓ Sharing premises
 - ✓ Business, trade or calling



- ✓ Touting and referrals
- ✓ Agreement for referrals
- ✓ Notifications by locum solicitors

- Relationship and Dealings with Clients
 - ✓ Diligence and competence
 - ✓ Requirement for complaint system and membership of redress scheme
 - ✓ Improper costs
 - ✓ Complete work in reasonable time
 - ✓ Inadequate records
 - ✓ Competence
 - ✓ Keeping client informed
 - ✓ Receipt of client's moneys or securities
 - ✓ Statements of accounts
 - ✓ Responding to clients
 - ✓ Explanation to client
 - ✓ No advice for illegal purpose
 - ✓ Authority of client's agent
 - ✓ Confidentiality

- Professional Conduct
 - ✓ Conflict of interest
 - ✓ Disclosure of interest
 - ✓ Potential conflict of interests
 - ✓ Not to act for both parties in dispute
 - ✓ Not to act against client's interests
 - ✓ Not to act against client
 - ✓ Prohibited borrowing transaction
 - ✓ Exempted borrowing transaction
 - ✓ Fees
 - ✓ Fees in contentious matters
 - ✓ Contingency fees prohibited
 - ✓ Gross overcharging
 - ✓ Unauthorised persons
 - ✓ Evaluation
 - ✓ Termination of retainer
 - ✓ Withdrawal
 - ✓ Fees chargeable in conflict situation
 - ✓ Purchases or gifts from client
 - ✓ Relationship with other advocates and solicitors
 - ✓ Second opinion
 - ✓ Taking over brief
 - ✓ Professional undertaking
 - ✓ Responsibility for fees
 - ✓ Communications with other solicitors
 - ✓ Relations with third parties



93. Best Practice Check List for Regulation of Medical Practitioners:

- Registration
 - ✓ Process for application for registration as medical practitioners
 - ✓ Physician's undertakings or pledge
 - ✓ Medical School requirements
 - ✓ Certificate of experience
 - ✓ Credentials Committee for admission assessment
 - ✓ Registration as specialist
 - ✓ Registration as family physician
- Grant and Renewal Of Practising Certificate
 - ✓ Importance of continuing medical education
 - ✓ Grant/renewal of practising certificate subject to continuing medical education
 - ✓ Duration of practising certificate
 - ✓ Requirement for complaint system and membership of external redress scheme
- Professional Conduct and Discipline
 - ✓ Professional conduct and ethics
 - ✓ Notice and process of disciplinary inquiry
 - ✓ Power to make orders and give directions for inquiries
 - ✓ Supply of documents and Subpoena
 - ✓ Medical Council establishment and procedure
 - ✓ Conduct of inquiry
 - ✓ Disciplinary Tribunal powers and processes
 - ✓ Disciplinary charges
 - ✓ Compensation and compliance orders
 - ✓ Findings of Disciplinary Tribunal
 - ✓ Publication of regulatory decisions
- Performance and Fitness Assessments
 - ✓ Performance Assessment Panels
 - ✓ Reasons for performance assessment
 - ✓ Fitness Assessment Panels
- Health Committees
 - ✓ Medical examination
 - ✓ Provision of medical reports to practitioner
 - ✓ Notice of inquiry by Health Committee
 - ✓ Attendance at inquiry
 - ✓ Role and constitution of Health Committees
 - ✓ Announcement of determination
 - ✓ Hearing rules



- Proceedings of Tribunals
 - ✓ Notice of hearing
 - ✓ Initial hearing
 - ✓ Review hearing
 - ✓ Application of certain regulations to Interim
 - ✓ Decisions
 - ✓ Proceedings

- Re-Registration
 - ✓ Application for restoration
 - ✓ Consideration by Medical Council

- GENERAL
 - ✓ Duty of regulators

(5) Assessment questions

1. Enumerate measures proposed in previous ASEAN consumer protection projects for future action to enhance the welfare of ASEAN consumers
2. Describe the proposal for ASEAN professional Association for consumer protection and its constituent elements
3. Explain the mechanics of cross border redress within ASEAN in relation to management of complaints against providers medical and legal services supply services across ASEAN border
4. Identify and list best practice regulation for medical and legal professional services and prioritise measures in accordance with your priorities
5. Enumerate elements of best practice check list for regulation of medical practitioners
6. Enumerate best practice check list for regulation of legal practitioners



Appendix I. Country Specific Issues in Professional Services from Road mapping Study

-Issues Raised In The Markets For Legal And Medical Services Taken From The Regional Reports Which Form Part Of The Road Mapping Study-

< Malaysia >

(1) Medical Professional Services

1. Apart from access to medical services, good consumer policy ensures means of redress against possible incidents of professional negligence, malpractice or unethical practices. In forming a doctor-patient relationship, it is necessary for both consumers and doctors to know about their duties and obligations, understand the doctor-patient contract and what constitutes professional negligence.
2. In addition to protection against the possibility of negligence, consumers expect doctors to provide them with relevant information when they seek treatment, such as:
 - The necessity of the treatment being provided;
 - Other alternative modalities to the treatment;
 - Risks of pursuing the treatment, including inherent complications of drugs, investigations, procedures and surgery;
 - Duration of the treatment;
 - Prognosis of patient's condition (no exaggeration or minimising the gravity of the situation); and
 - Expenses, fees and a breakdown of the charges.
3. Advances in e-Health as another form of delivery of healthcare services also have an impact on consumer's rights and access to medical care as consumers become more empowered through the sharing of knowledge and information on the Internet, they are able to take advantage of online processes, health portals and doctors or physicians web pages and emails.
4. The new breed of Internet-savvy consumers expect greater integrity and ethics to boost a new form of doctor-patient relationship, through increased efficiency, reliability and accuracy, as well as strengthened communication between doctors and patients. The duties and obligations of the medical profession are stated in a number of national laws and international declarations and codes of ethics, such as:
 - Declaration of Geneva (Physician's Oath);
 - Declaration of Helsinki - Ethical Principles for Medical Research involving Human Subjects;
 - International Code of Medical Ethics.
5. There are also various legal instruments and programs that have been put in place to ensure ethical practices, including those related to advertising by doctors in Malaysia

6. In Malaysia, Medical Practitioners with full registration are required to apply for an Annual Practicing Certificate (APC) (Section 20 of the Medical Act). According to the 2008 Report of the Malaysian Medical Council (MMC), the Registrar of Medical Practitioners issued 20,280 APCs in 2008, compared with 18,284 in 2007. In 2008, 10,274 and 10,008 of the APCs were issued to public and private sector respectively.
7. The number of foreign medical practitioners granted registration for the year 2008, was 245 in the public sector and 107 in the private sector. The MMC is a corporate body established under Section 3 of the Medical Act 1971, with the objective of safeguarding patients and guiding doctors. In the effort to keep registered practitioners abreast of ethical and medico-legal issues that have been cropping up of late, the MMC has revised its various ethical guidelines and makes them available through its website.
8. Medical practitioners in Malaysia have been suspended on various grounds. Up to 2008, 138 complaints, including 97 for the year 2008, were filed against medical practitioners in Malaysia. MMC has established different committees to look into different areas of medical practice. For instance, the Evaluation Committee among other things looks into the registration of medical practitioners, including evaluating foreign medical practitioners and regulating their conduct and ethics as well as accrediting medical institutions (both local and foreign). Other committees in MMC include the Ethics Committee, the Medical Act and Regulations
9. Amendments/Revision Committee and the Preliminary Investigation Committee. MMC also assesses applications for registration from practitioners who are unable to perform their professional duties by reason of their mental or physical condition. MMCs Code of Professional Conduct (CPC) aims to support and promote medical professionalism, facilitate good medical practices and enhance doctor-patient relationship. There are four main categories of 'Infamous Conduct' for which a complaint against a registered medical practitioner can be inquired into:
 - Neglect or disregard of professional responsibilities;
 - Abuse of professional privileges and skills;
 - Conduct derogatory to the reputation of the medical profession; and
 - Advertising, canvassing and related professional offences.
10. The Code of Medical Ethics published by the Malaysian Medical Association (MMA) outlines the ethical obligations of doctors to patients on consent for medical examination and treatment; fees; professional confidence; treating and handling a dying patient; statutory requirements on disclosure; keeping medical records and reports; issuance of medical certificates; privileged communication; non-orthodox (traditional) forms of healthcare; telemedicine; intimate examination; and termination of pregnancy. MMA also requires all doctors to be familiar with the CPC issued by the MMC and the Guidelines on Public Information by Private Hospitals, Clinics, Radiological Clinics and Medical Laboratories. Good communication between the doctor and patient is essential for consent. Patients should be given adequate information in a way they can understand to enable them to make decisions about their medical care.

11. It is a general rule that doctors should examine and treat patients only with their consent. With regard to charges, medical practitioners are encouraged to price their fees reasonably and this should be discussed with the patient prior to investigation or treatment, while adhering to the MMA Schedule of Fees. Professional confidence implies that a doctor shall not disclose voluntarily, without the consent of the patient, preferably in writing, information that he has obtained in the course of his professional relationship with the patient. The patient is entitled to a written report of the care that has been given to him. The doctor is obligated to provide him such a report without any unreasonable delay. The withholding of information of the care given to the patient is unethical. Other practices, such as the issuance of sick certificates to patients without a medical examination, are also considered unethical and may lead to disciplinary action by the Malaysian Medical Council.
12. A total number of 87 complaints were received against medical practitioners in 2008. According to MMC (2008), this averaged at 4.3 per 1,000 registered medical practitioners based on the 20,280 APCs issued in 2008. According to the 2008 MMC Annual Report, complaints against medical practitioners were mainly related to:
- Association with an unqualified and unregistered person to attend to and treat patients, and prescribe scheduled drugs;
 - Abuse of professional privilege and skills in producing false, misleading and improper reports;
 - Use of a patient's medical report in civil suit at without the consent of the patient;
 - Harassment and molestation of a patient while examining without the presence of a chaperone; and
 - Disregard and neglect of professional responsibilities, such as: ignoring patient's choice of treatment despite being informed; not explaining the risks or not giving prior notification or not seeking prior consent; and failing to carry out competent and considerate inquiries post-surgery.
13. In Malaysia a doctor cannot practice or prescribe any form of traditional therapy unless he has undertaken recognised training and is registered to do so. To provide a wider healthcare reach-out, telemedicine is practised in Malaysia, particularly applied as a tool to exchange medical information as part of the consultation with distant medical experts, be it foreign or local, in the course of the treatment of patients. This is a rapidly evolving area of medical practice in the country. In practising telemedicine, medical practitioners should also adhere to a particular set of conduct. MMA stresses that the use of e-mail should not diminish the quality of care patients receive.
14. Consultation and prescribing by e-mail may seriously compromise standards of care where:
- The patient is not previously known to the doctor;
 - There is little or no provision for appropriate monitoring of the patient or follow-up care; or
 - The patient cannot be examined. Most clinical applications of telemedicine in Malaysia, however, have not been subjected to systematic comparative studies that assess their impact on the quality, accessibility, acceptability and cost of healthcare.



(2) Malaysian Legal Profession

15. A consumer is likely, at some point, to seek the services of a lawyer or an advocate. It is quite common for consumers, in general, to use the services of lawyers or advocates in writing wills or to file the legal forms required to start a business. Consumers may also seek the services of lawyers or advocates on family matters, such as divorce or custody issues, and in cases where they are accused of a crime or are being sued. Lawyers have a duty to advise and help their clients understand the legal system. In doing so, consumers expect lawyers to protect their legal rights as clients, help them solve legal problems, defend and guard them, as clients, against abuses of potential rights violators. Thus, it is seen that the services of legal professionals have relatively direct implications on consumers.
16. Legal professional services are particular sought by consumers to represent their interests in the court-based system. The advancement in cross-border transactions may further necessitate consumers seeking professional legal services in this era of globalisation. Before legal professional services, consumers are generally concerned about a number of factors such as:
- Background, qualifications and experience of the practitioner;
 - Disciplinary history;
 - Service fees (hourly, flat fee, on retainer or contingent fee); and
 - Professional liability
17. In general, consumers also expect their hired lawyers to work hard to represent them; apply good judgment and remain neutral so as not to have any conflicts of interest; perform according to their desired legal goals; respect the confidentiality of information provided or shared; charge a reasonable fee; provide updates on their cases or positions; and be fair, respectful and unbiased regardless of their background (race, age, gender, national origin or disability).
18. Currently, the Malaysian Bar Council lists 5,956 legal firms and 13, 342 lawyers in the country. Fifteen Legal Aid Centres have been established in the states of Peninsular Malaysia. The Malaysian Bar Council also makes public its Disciplinary Orders and Summary of Orders on Malaysian Bar Website
19. In 2010, some of disciplinary actions against the identified lawyers and firms included:
- Charging excessive fees and disbursements in connection with the preparation of a Sale and Purchase Agreement and a Loan Agreement;
 - Failing to act in the best interests of the client;
 - Acting in gross disregard of the client's interests;
 - Deceiving, committing breach of trust and acting mala fide in relation to the preparation of loan documentation for clients;
 - Failing to attend diligently to the work at hand despite repeated promises to the client; and
 - Abusing one's position as an advocate and solicitor by securing the execution of a charge from the complainant by misrepresentation and deception.



(3) Laws relating to Professional Services in Malaysia

20. The Medical Act 1971 governs the medical profession in Malaysia, under which the Malaysian Medical Council (MMC) has been established to protect consumers and outlines the code of conduct for medical practitioners. The MMC has disciplinary jurisdiction over all practitioners registered under this Act, and can exercise disciplinary jurisdiction over any registered person who has been convicted in Malaysia or elsewhere of any offence related to fraud or misrepresentation.
21. The Legal Profession Act 1976 consolidates the law relating to the legal profession in Malaysia, under which the Malaysian Bar Council was also established to:
- Uphold the cause of justice without regard to its own interests or that of its members, uninfluenced by fear or favour; Maintain and improve the standards of conduct and learning of the legal profession in Malaysia;
 - Facilitate the acquisition of legal knowledge by members of the legal profession and others;
 - Represent, protect and assist members of the legal profession in Malaysia and to promote in any proper manner the interests of the legal profession in Malaysia;
 - Protect and assist the public in all matters touching ancillary or incidental to the law;
 - Promote good relations and social intercourse among members and between members and other persons concerned in the administration of law and justice in Malaysia; and
 - Establish a Compensation Fund
22. The Legal Profession (Practice and Etiquette) Rules 1978 – P.U. (A) 369/78 regulates professional practice, etiquette, conduct and discipline of advocates and solicitors through the Bar Council. In addition to the Practice and Etiquette Rules, legal practitioners are also bound to the Solicitors’ Remuneration Order 2005 with regard to charges and fees.

<Lao People’s Democratic Republic>

(1) Legal Professional services

23. Consumer protection in relation to legal professional services in countries such as Lao PDR has an entirely different meaning to that in the more advanced AMS. The outstanding issue affecting consumers in relation to legal professional services in Lao PDR is to obtain even rudimentary access to justice.
24. Critically, it is difficult for all but the wealthiest consumer’s Lao PDR to obtain any legal services because the number of lawyers is so low. As at 2010 there were only 103 members of the Bar Association. Of these, some were still in their probationary training stage of practice, whereas others are retirees. Thus, there is a critical need for more qualified legal practitioners to meet consumers’ needs.



(2) Medical Professional Services

25. Just as access to legal services is extremely limited in Lao PDR, so too is access to medical services. The number of qualified medical practitioners is low, though not quite to the same extent as in the legal sector. There is also a problem with the unregistered practice of medicine, particularly by pharmacists. They may “prescribe” medicine, whether counterfeit or legitimate, that does harm or that leaves a serious condition untreated – often without even examining the patient. These pharmacists mostly lack training and up to date knowledge. Some of those who act as pharmacists are not registered even to practice pharmacy, let alone medicine. This is a particular problem in village areas.

(3) Laws relating to professional services in Lao PDR

26. Providers of Professional Services (both medical and legal) are required to be registered in Lao PDR. In the case of the medical profession, this obligation arises from Article 8 of the Public Health Law 2003. Article 9 sets out the duties of health care professionals, including “to prescribe and recommend health-care protocols and to conduct necessary health-care procedures ensuring high quality and safety.” Article 35 sets out their required professional ethics, including “observance of nationally and internationally recognised technical standards of care in order to help patients recover their health.”

27. In the case of the legal profession, the obligations on professionals come from the government Decree (No 64/PM of 21 February 2006) that establishes the Bar Association of Lao PDR as an official organ of the legal system. The Bar Association’s rules govern the eligibility of legal practitioners to practice law in Lao PDR. Candidates for admission must, amongst other criteria, have a certificate of graduation from a high or middle level law school, and in the latter case must also have more than five years’ experience working as a judicial officer. Essentially, this means that a candidate with a lower level of formal qualifications can serve as a lawyer after a five-year apprenticeship.

<Republic of Indonesia>

(1) Legal Professional Services

28. In Indonesia, it is likely that most urban middle class consumers will, at some point, require the services of a lawyer or an advocate. Common requirements for legal services include writing wills or detailed estate plans, or assisting in filing the legal forms required to create a business. Consumers may also require the services of lawyers or advocates in court on family matters, such as divorce or custody issues, or defence in cases they are accused of a crime or being sued. Lawyers or advocates have a duty to advice and help consumers understand the legal system. In doing so, consumers expect to see that lawyers work to protect their legal rights as clients, help them solve legal problems, defend and guard them, as clients, against abuses of potential rights violators. Thus, it is seen that the services of legal professionals have a relatively direct importance for and implications on consumers. Legal professional services are particular sought by consumers to represent their interests in the court-based system. The advancement in cross-border transactions may further necessitate consumers to



render professional services in cross-border legal representation in the era of globalization. Before rendering legal professional services of a lawyer or an advocate, consumers are generally concerned about a number of factors such as:

- Background, qualifications and experience
- Disciplinary history
- Legal requirements for practicing law to govern their professional conducts
- Service fees (hourly, flat fee, on retainer, or contingent fee)
- Professional liability In general, consumers also expect their hired lawyers or advocates to work hard to represent them
- Apply good judgment and remain neutral as to not having any conflicts of interests
- Perform according to their desired lawful goals • respect the confidentiality of information provided or shared • charge reasonable fee
- Provide updates of their cases or positions
- Be fair, respectful and unbiased regardless of their background (race, age, gender, national origin, or disability) In Indonesia, “advocate” is the common term for a legal professional having a standing to represent the general public, or clients, or consumers.

29. As a fast, highly populous nation with a landmass approaching 2,000,000 km² and a population of 255 million people, Indonesia has very large pockets of poverty, deprivation and tens of millions of consumers who live in rural and remote areas very poorly served by legal professional services. In this respect Indonesia has the distinction of being the world’s 8th largest economy measured by GDP using the Purchasing Parity Power Technique, while also having hundreds of distinct native ethnic and linguistic groups, many of whom lack access to essential services.

30. Administratively, Indonesia consists of 34 provinces, five of which have special status. Each province has a hats own legislature and governor.

31. In common with the majority of AMS, Indonesia has a national Law on Advocates that governs their duties, rights, and privileges, and that also sets out the Code of Ethics of Indonesian Advocates applicable to those legal practitioners admitted under the Law. A disciplinary committee or board also exists to examine and evaluate the performance of ethical conduct of an advocate. Currently, there are two well-known advocate associations in Indonesia. -The Indonesian Advocates Association (or PERADI–Perhimpunan Advokat Indonesia) and the Congress of Indonesian Advocates (or KAI – Kongress Advokat Indonesia).

32. Foreign lawyers are allowed to work or to be employed in Indonesian law firms, whereby they have to be hired by an Indonesian firm and have to obtain a working visa from the Indonesian government. A recommendation from the authorized Advocate Association is also required. However, there are still some restrictions for foreign lawyers to practice law in Indonesia, such that they are only permitted to provide consulting services on foreign law, rather than Indonesian law. Additionally, foreign lawyers are not allowed to appear before any court, and they are not allowed to practice law and/or set up law firms or branches of their overseas law firms in Indonesia.

33. It was a finding of the Road mapping report that despite the existence of complex and extensive rules offering protection to consumers of legal services, there was no available evidence of widespread use of regulatory powers. The consultants who prepared the Road mapping report looked for evidence of regulatory action in relation to the following anti-consumer practices by lawyers:

- “charging excessive fees and disbursements in connection with the preparation of a Sale and Purchase Agreement and a Loan Agreement.”
- “Failing to act in the best interests of his client.”
- “acting in gross disregard of his client’s interests”
- “deceiving, committing breach of trust and acting mala-fide in relation to the preparation of loan documentation for his client”
- “failing to attend diligently to the work at hand despite repeated promises to the client.”
- “abusing his position as an advocate and solicitor in that he secured the execution of a charge by the Complainant by misrepresentation and deception”
- the Road mapping report concluded that
- “There were, however, no official reports, cases, data, figures or statistics on any of the above incidences in Indonesia, found during the course of this Study””
- The implications for the apparent lack of enforcement activity are that the regulatory system is either inaccessible, under resourced or not well understood.

(2) Medical Professional Services

34. In common with the provision of legal professional services in Indonesia, there is a strong dichotomy in access. Urban and middle-class consumers typically have access to medical practitioners while for many millions of consumers, especially those in very remote and poor agrarian communities basic access to medical services is extremely limited.

35. Consumer protection issues confronting consumers of medical professional services include incidence of professional negligence, malpractice or unethical practices. In forming a Doctor Patient relationship, it is necessary for both consumers and doctors to know about their duties and obligations, understanding Doctor-Patient contract and understanding Professional Negligence. Apart from negligence, consumers, in general, view that doctors have general duties to provide them with relevant information when they seek treatment such as:

- The necessity of the treatment.
- Other alternative modalities of a treatment.
- Risks of pursuing the treatment, including inherent complications of drugs, investigations, procedure, surgery
- Duration of the treatment.
- Prognosis of patient’s condition (no exaggeration or minimize the gravity of the situation).
- Expenses, fees and break down of charges. The advances in e-health as another form of delivery of healthcare services would also have an impact on consumers’ rights and access to medical care.



- Duties and obligations of doctors are declared in a number of national laws and international declarations and codes of ethics such as:
- Declaration of Geneva (Physician's Oath)
- Declaration of Helsinki - Ethical Principles for Medical Research Involving Human Subjects
- International Code of Medical Ethics.

36. There are also various legal instruments and programs that have already being put in place to ensure ethical practices, including those related to advertising by doctors in Indonesia. It is also noted that Indonesia places certain restrictions to limit the practice of foreign doctors. In Indonesia, foreign medical and allied health specialists can be legally registered only as consultants and are not allowed to practice permanently in Indonesia.

37. General issues experienced by consumers with regards to professional services include:

- Doctor may give wrong diagnosis, also not carrying out procedure properly
- Fraud or dishonest practice
- Breaches of confidentiality or trust
- Does not provide full explanation before any course of actions
- Key challenges in relation to consumer protection for consumers of medical professional services Indonesia include:
 - Strengthening the capacity of disciplinary board
 - Propose means to notify consumers of blacklisted or unlicensed practitioners
 - Train sufficient local doctors to meet the reasonable needs of the rapidly growing and geographically dispersed population
 - equip and encourage consumers to understand their rights and responsibilities
 - Encourage medical professionals to establish codes of practice to facilitate better systems of internal control and schemes for self-regulation or co-regulation.

(3) Laws on Professional Services in Indonesia

38. Legal Professionals Law No. 18/2003 concerning Advocates was the first advocate law enacted in Indonesia, which regulates the qualification for and practices of advocates. The Law defines "Advocate" as a person with a profession to provide legal services, either inside or outside the court and has met the requirements set forth in this law (Article 1). The Law stipulates that an advocate is prohibited from holding or possessing any other position or having any other profession that could cause a conflict of interest with the duties and dignity of his profession or position that may prejudice the advocate's profession, or interfere with or diminish his / her independence and freedom as an advocate in performing his / her duties and responsibilities.

39. It is clearly stipulated in the Law on Advocate that if an advocate accepts a state office appointment he /she must not go on practice and shall not be permitted to practice as an advocate until the time he / she resigns from such appointment. Article 19 of the Law specifically states that:

- "(1) Every Advocate shall maintain the confidentiality of all matters that come to his/her knowledge or which are informed to him/her by his/her Client based on his/her professional relationship, save where otherwise provided by this Law"



- (2) “An Advocate has the right to keep confidential anything pertaining to his/her relation with his/her client, including the protection of his/her files or documents from confiscation, investigation and from taping of the Advocate’s electronic communication”.
40. Article 3 of Law No 18/2003 stipulates the requirements to be an “appointed advocate” in Indonesia which include: i. Indonesian Citizen; ii. Residing in Indonesia; iii. Is not a civil servant/ government officials; iv. Aged at least 25 years; v. Holding a bachelor’s degree in Law and certificate of practice vi. Has passed the examination held by an association of advocates vii. Completed at least 2 consecutive year of internship with an Advocates” Office or legal firm; viii. Has not committed any criminal acts which may be subjected to an imprisonment for 5 (five) years or more; ix. Has a good conduct, honest, responsible, fair, and high integrity. Foreign lawyers or advocates are permitted under Article 23 of Law No. 18/2003 on Advocates (“Advocate Law”) to practice in Indonesia.
41. Specifically, Article 23 states that a foreign advocate is not allowed to appear in or address the court, practice or establish an office or its branch in Indonesia. Indonesian advocates have serious ethical and legal obligations to their clients. The Code specifically governs the advocate’s duties to his/her client (Article 4), which, among others, include:
- Presenting a peaceful workable resolution
 - Maintaining the confidentiality of all matters informed by a client, even after advocate-client relationship comes to an end
 - Should oblige to refuse cases that lack legal ground;
 - Not providing misleading information to a client in respect of the case.
 - Not promising any guarantee for successful outcome to a client.
 - Not imposing on client with a burden of unnecessary expenses and costs.
42. Medical Professionals Law No. 29/2004 on Medical Practices provides for the regulation of medical practitioners and specifies rights and obligations of Patient and Medical Practitioners enforced through the Indonesian Honorary Medical Disciplinary Board under the Indonesia Medical Council. Medical Council Regulation No. 7/2012 on Medical Practices supplement the Law related to practice and relationship between patient and medical doctor/dentist.
43. Consumers expectation related to professional services from doctors include:
- Reliability: capacity to provide services as described in effectively and in satisfactory manner
 - Responsiveness: capacity to provide unprejudiced assistance and services, regardless of race, religion, or economic background
 - Assurance: of quality, safety, and security
 - Empathy: capacity to communicate and understand consumer needs. Generally, consumers in Indonesia perceive doctors, as well as lawyers, in Indonesia as “unapproachable” associated with some form of superiority complex in the context of societal integration.



<Kingdom of Cambodia>

(1) Professional Legal Services

44. The legal profession in Cambodia is minute in numbers and poorly distributed to provide services across the kingdom. Not only are there very low numbers of legal practitioners but many have low levels of qualifications as well. Moreover, the cost of private legal advice and representation is far beyond the reach of ordinary Cambodians, and the resources of the legal aid NGOs are limited. An example given of one of the legal problems that affects ordinary Cambodians is that a land owner with rice paddies or vegetable fields might leave to seek their fortunes elsewhere, and at some point later return to find that their land has been occupied by a squatter who is now working the paddies or tilling the fields for their own profit. Records of land ownership are poor, inaccurate, and difficult and expensive to obtain. In such cases, ownership of land can easily be lost. Another problem is that there is a culture in Cambodia of reluctance to complain. This leads to Cambodians whose rights are infringed failing to seek legal recourse, but simply suffering in silence.
45. The UN Guidelines for Consumer Protection, emphasise that access to basic goods and services is one of the fundamental areas of attention for consumer policy developers. While issues of redress and value for money are important components of consumer protection, lack of access is an even greater one which appears in Cambodia.

(2) Professional Medical Services

46. The road mapping report includes a regional report on the situation of the medical profession in Cambodia. The report notes that there is no universal public health care in Cambodia. Those in need of treatment must pay out of their own pocket. This drives many Cambodians away from modern medical treatment to informal alternatives, such as pharmacists who are legally prescribed medicines directly, unregistered medical practitioners, and traditional medicines which are not effective for all ailments.
47. Unregistered or under qualified medical practitioners give wrong diagnoses, or fail to carry out procedures properly. Some are deliberately fraudulent and dishonest, whereas others simply have limited experience. In one case, a sixteen-year old girl told that she had a breast cancer that required removal of the breast. The distressed mother came to an NGO worker who paid to have a second opinion taken from a more qualified practitioner. The second practitioner found that there was no cancer at all, and that the small lump found in the girl's breast was due to the fact that she was still physically developing. Even in the hospital system, there is a relatively low level of care. Practitioners in public hospitals are frequently under-educated, with many services being provided by paramedical staff such as medical assistants and nurses that ought to be provided by fully-qualified doctors. The availability and standard of treatment is even more limited in night hours than during the day, and in rural areas than urban. In private hospitals, the qualifications of healthcare staff are somewhat higher, but these hospitals still lack modern medical equipment – and of course their fees are higher than in the public system.



(3) Laws on Professional Services

48. The Law on Bar Statutes 1995 states that the “legal profession is an independent and autonomous profession involved in serving justice and may be only pursued within the framework of the Bar Association,” which is an “organization bringing together all lawyers who establish offices in the Kingdom of Cambodia.” All practising lawyers must be registered with the Bar Association. Membership requires that the lawyer hold a recognised degree, and have successfully completed a fourteen-month training course and the exam that follows it. Trainee lawyers must also undergo an internship in a law office for a period of one year.

<Brunei Darussalam>

(1) Legal Professional Services

49. A consumer is likely, at some point, to acquire the services of a lawyer or an advocate. It is quite common for consumers, in general, to use the services of lawyers or advocates in writing wills or detailed estate plans, or assisting in filing the legal forms required to create a business. Consumers may also require the services of lawyers or advocates in court on family matters, such as divorce or custody issues, or defence in cases they are accused of a crime or being sued. For consumers or clients, lawyers or advocates have a duty to advise and help them understand the legal system. In doing so, consumers see that lawyers work to protect their legal rights as clients, help them solve legal problems, defend and guard them, as clients, against abuses of potential rights violators.

50. The services of legal professionals have a relatively direct importance for and implications on consumers. Legal professional services are particular sought by consumers to represent their interests in the court-based system. The advancement in cross border transactions may further necessitate consumers to render professional services in cross-border legal representation in the era of globalisation. Before rendering legal professional services of a lawyer or an advocate, consumers are generally concerned about a number of factors such as:

- Background, qualifications and experience
- Disciplinary history
- Legal requirements for practicing law to govern their professional conducts
- Service fees (hourly, flat fee, on retainer, or contingent fee)
- Professional liability In general, consumers also expect their hired lawyers or advocates to work hard to represent them, apply good judgment and remain neutral as to not having any conflicts of interests, perform according to their desired lawful goals, respect the confidentiality of information provided or shared
- Charge reasonable fee, provide updates of their cases or positions, be fair, respectful and unbiased regardless of their background (race, age, gender, national origin, or disability)

51. The legal services in Brunei Darussalam are regulated by the Chief Justice in accordance with the Legal Profession Act (Cap. 132). Whereas the Law Society of Brunei Darussalam was established in 2003 in accordance with the Legal Profession

(Law Society of Brunei Darussalam) Order 2003 which is a subsidiary legislation under the Legal Profession Act (Cap. 132). Among the purposes of the Law Society of Brunei Darussalam are to maintain and improve the standards of professional conduct and learning within the legal profession; to facilitate the acquisition of legal knowledge by members of the legal profession; to assist the Government and the Courts in all matters relating to the law; and to protect and assist the public in Brunei Darussalam in all matters touching or ancillary or incidental to the law.

52. For the purpose of consumer protection, however, it is important to note some concerns of consumers in relation to legal services. In other countries, for instance, some of disciplinary actions against the identified lawyers and firms have been reported under the Legal Profession (Law Society of Brunei Darussalam) Order 2003.

(2) Medical Professional Services

53. Medical and Dental Services are reasonably available in Brunei Darussalam. Consumer protection policy focusses on redress where professional negligence, malpractice or unethical practices have occurred. In forming a Doctor/Patient relationship, it is necessary for both consumers and doctors to know about their duties and obligations, understanding Doctor-Patient contract and understanding Professional Negligence. Apart from negligence, consumers, in general, view that doctors or dentists have general duties to provide them with relevant information when they seek treatment such as:

- The necessity of the treatment.
- Other alternative modalities of a treatment.
- Risks of pursuing the treatment, including inherent complications of drugs, investigations, procedure, surgery
- Duration of the treatment.
- Prognosis of patient 's condition (no exaggeration or minimize the gravity of the situation).
- Expenses, fees and break down of charges.

54. The advances in e-health as another form of delivery of healthcare services would also have an impact on consumers 'rights and access to medical care. As today 's consumers become more empowered through the sharing of knowledge and information on the internet, consumers have indirectly become partners in their own health and take advantage of online processes, health portals, and doctor 's or physician 's web pages and e-mails

55. There are a number of legal instruments and programmes that have already been put in place to ensure ethical practices, including those related to advertising by doctors in Brunei Darussalam. In 2009, there were a total of 445 physicians and 72 dentists registered to practice in Brunei Darussalam. A comprehensive manpower development programme for the community, as well as hospital-based health personnel, is to be extended to strengthen healthcare services throughout the country, with the emphasis on the primary healthcare approach.

56. The Ministry of Health in its effort to provide quality health care puts high emphasis on continuous skill and professional development of its workforce, which plays a key role in



delivering the services. Upgrading professionalism, skills, credibility and quality of services towards excellence is one of the strategic themes in the National Healthcare Plan (2000 – 2010). Towards this, the Ministry of Health has made a long-term plan to develop more professionals in various specialised areas so as to achieve excellence through training courses, workshops and seminars held locally and internationally. Efforts are also being put into developing postgraduate training programmes which include sending local doctors to undergo further high specialty training overseas.

57. This has progressed to providing training locally with the accreditation of RIPAS Hospital by University of Queensland, Australia; Royal College of Physicians, U.K Royal College of Surgeons, Edinburgh; Royal College of Obstetrics and Gynaecology and Royal College of Paediatrics and Child Health, London. In the year 2000, the Ministry of Health in collaboration with the Institute of Medicine, University Brunei Darussalam (UBD) and St. George 's Hospital Medical School, started a part-time Postgraduate Diploma course in Primary Health Care. Since 2004, it has been run fully by the Institute of Medicine UBD. With the increase in the number of local expertise and graduates in healthcare, the Ministry has been able to expand its scope of medical services.
58. To support the initiatives in capacity building, the Primary Health Care Orientation and Training Centre was established in 1986, primarily to provide training courses on Primary Health Care concept for health personnel. Since then, many training programmes for Community Health Nurses have been conducted by the Centre including, refresher courses, seminars and workshops for continuing professional development to increase knowledge.
59. Performances of doctors are under the purview of the Brunei Medical Board (BMB). In the event of negligence, the board would thoroughly investigate the reports from relevant parties by interviews and case conference. Actions taken for negligence events are as follows:
- Verbal and non-verbal warnings
 - Refresher training
 - Supervision by a Senior Doctor
 - Actions according to the General Orders
 - Issuing Letter of Good Standing
 - Cancellation of registration to BMB
 - Shortening of contracts (for contract officers)

(3) Laws on Professional Services

60. Medical Professionals in Brunei Darussalam are governed under the Medical Practitioners and Dentists Act (Cap. 112). In general, “a natural person who wishes to practice as doctors, dentists, pharmacists, nurses and midwives must register to practice with the respective Boards in Brunei Darussalam”. Other Acts that govern other health professionals in Brunei Darussalam are:
- Nurses Registration Act (Cap. 140)
 - Midwives Act (Cap. 139)
 - Pharmacists Registration Order 2001



61. The Legal Profession Act (Cap 132) states that a natural person who wishes to supply legal services must possess one of the academic requirements set out in Section 3(1)38 that would qualify for admission to practice as an advocate and solicitor in Brunei Darussalam. Furthermore, he must also be either a Brunei national or a person to whom a residence permit has been granted under regulations made under the Immigration Act.³⁹ If a person is not a Brunei national or no residence permit has been granted to him, he can only apply for admission if (along with having the academic requirements mentioned above) he has been in active practice in any part of the United Kingdom, Singapore, Malaysia or in any other country or territory of the Commonwealth designated by the Attorney General for at least 7 years immediately preceding his application. Admission to practice is also at the Chief Justice 's discretion and he shall further take into consideration the criteria set out in Section 4 of the Legal Profession Act (Cap. 132).
62. Other law governing the legal profession is Legal Profession (Law Society of Brunei Darussalam) Order 2006 38. The academic requirements are:
- He is a barrister-at-law of England, Northern Ireland or he must be a member of the Faculty of Advocates of Scotland; or
 - He is a solicitor in England, Northern Ireland or a Writer to the Signet, law agent or solicitor in Scotland; or
 - He has been in active practice as an advocate and solicitor in Singapore or in any part of Malaysia; or
 - He possesses the Certificate of Legal Practice issued by the Qualifying Board pursuant to section 5 of the Legal Profession Act 1976 of Malaysia; or
 - He possesses a degree in law conferred by the Universiti Islam Antarabangsa in Malaysia.
63. Specific provisions on standards of practice and rules of ethics of legal professionals are also covered under the Advocates and Solicitors (Practice and Etiquette) Rules 1991.
64. Rule 34 (1) of the Rules refrains advocate from abusing confidence, “shall refrain from any action whereby for his personal benefit or gain he abuses or takes advantage of the confidence reposed in him by a client.”
65. Confidentiality clause is also covered under Rule 41 of the Rules 1991 whereby, “An advocate shall not communicate with a person upon any matter in respect of which to his knowledge that person is represented by another advocate, except with the latter's consent.”
66. Advertising of Advocate's services is also specified under Section Rule 43(1), whereby “An advocate shall not solicit work or advertise, either directly or indirectly, whether by circular, advertisement, touts, personal communications, by inspiring newspaper comments or procuring his photograph to be published about, any case with which he has been concerned.” Rule 44 further prohibits personal advertisement, whereby —An advocate shall not do or cause or allow to be done anything which has as its primary motive personal advertisement in any form.and prohibit touting under Rule 49, “An advocate shall not do or allow to be done, anything for the purpose of touting, directly or indirectly.”
- 3.1.7.1 Implementing agencies.



67. These agencies are in charge of the Professional Services and the specific areas as discussed in the above Section: iv) Ministry of Health – Medical Professionals v) Ministry of Law – Legal Professionals

<Republic of the Union of Myanmar>

(1) Legal Professional Services

68. In common with other less developed AMS, The Republic of the Union of Myanmar faces a severe shortage of qualified lawyers to serve the needs of consumers. There are no publicly available official reports, cases, data, figures or statistics on actions taken for redress against lawyers in Myanmar. The Road mapping study was not able to access any information related to relevant laws that govern the conduct and activities of legal practitioners in the country.

(2) Medical Professional Services

69. Doctors in Myanmar are governed under the Myanmar Medical Council Law (2000), whereas the Traditional Medicine Council Law applies to the traditional medical practitioners, with regards to their rules of conduct and discipline, including registration requirements and duties of these practitioners. The Dental and Oral Medicine Council Law (1989) carries specific provisions for regulating dental and oral medicine practitioners. This Law states provisions on licensing as well as the function and powers of the Council to regulate. 3.1.7.3.

70. Implementing agencies in charge of the Professional Services include i) Ministry of Health – Medical Professionals ii) The Myanmar Medical Council iii) The Dental and Oral Council iv) Ministry of Home Affairs – the court system

<Kingdom of Thailand>

(1) Legal Professional Services

71. As Thailand 's economy grew throughout the latter half of the twentieth century; lawyers, attorneys, law firms, and legal services became increasingly essential for business operators. The legal profession in Thailand is divided into 3 categories namely: Thai Judges, Thai Public Prosecutors and Lawyers. Judges in Thailand are recruited by the judicial commission and are appointed by His Majesty the King Bhumibol. Law graduates intending to be public prosecutors must have qualifications required by the Regulation of Public Prosecutor Officers Act B.E. 2521 (A.D. 1978). Barristers-at-Law must be at least 25 years of age, be of Thai nationality, pass the Thai Bar Examination and pass a highly competitive examination given by the judicial commission. Unlike the United Kingdom, lawyers in Thailand are not divided into barristers and solicitors, nor are they required to pass a bar examination, as they would be in the United States.

72. To become a lawyer, the Lawyers Act B.E. 2528 (AD 1985) defines a lawyer as —a person who has been registered as a lawyer, and a license has been issued to him or her by the Law Society of Thailand. Lawyers in Thailand are only reserved for Thai nationality. Legal works for lawyers in Thailand varies and ranges from litigators, legal



consultants, in house legal counsels as well as legal officials. The vast majority of Thailand's lawyers and law firms are located in the capital city of Bangkok. Law firms are generally set up under corporate and commercial law in types of either corporate, partnership or limited liability partnership. Law firms range in size from small and solo practices to large mega firms which are part of an international network

(2) Medical Professional Services

73. The Healthcare professionals in Thailand as regards to the number of doctors, dentists, pharmacists, and nurses have shown a gradual increase every year and ratios of health care personnel to population are improving. In Thailand, education system and qualification for medical personnel, dentists, pharmacists, nurses, and midwifery must be licensed pursuant to regulations of Medical Council, Dentist Council, Pharmacy Council, and Nursing council of Thailand respectively.
74. Health Care professionals are required to complete their degrees from education institutions accredited by Medical Council, Dentist Council, Pharmacy Council and Nursing Council accordingly. Health care consumers may take complaints to government, MoPH or Non-governmental institutions for example Consumer Foundation and the relevant professional Councils for unsatisfied services from health care professionals or personnel. Conduct of medical care personnel is regulated by several laws and regulations, Medical Profession Act of B.E. 2525, Dental professions Act of B.E. 2537, Pharmaceutical Profession Act of B.E. 2537, Nursing and Midwifery Professions Act, the Amendment No.2 of B.E. 2540 and Medical Registration of B.E. 2542. According to the ILO report, the distribution of health personnel is different among Bangkok and regions (North, Northeast, central and South); there are more doctors in Bangkok; number of population per doctors is highest in North Eastern region, which is the poorest region. Workload was lower not only for the doctors but also nurses who worked in other ministry hospitals or private hospitals as compared to the MOPH hospitals.
75. There have been a long history and a lot of measures to overcome this inappropriate distribution of health care personnel among rural and urban area since the first national socio-economic plan. These personnel preferred to stay in urban area. Increasing on training of qualified health care personnel alone was not an answer. The MoPH started its effort to get more doctors to its 1st class health centre by providing voluntary grant for medical student and financial incentive. Nevertheless, the situation was worst, during the 60's decade; professionally qualified Thai medical personnel migrated overseas. People resented and called government to manage this problem of "brain drain". In 1968 government launched a new very high medical education fee and a compulsory measure that all medical students have to work for government for three years. Otherwise they have to repay government for 60,000 Baht. This fee now increases to 400,000 Baht (Chokewiwat, 1999). Finally, it applied to other health care professional i.e. dentist, pharmacist, nurse, and other paramedical personnel.

(3) Laws on Professional Services

76. There are specific laws classified by the professional type, e.g. Lawyer 's Act of 1985 and the Medical Profession Act 1982 and the Medical Registration Act 1999 etc. Under the Lawyers Council Act 1985 the control of practicing lawyers lies with the Lawyers Council of Thailand. It is responsible for registering attorneys, issuing licenses,

instituting disciplinary action and promulgating codes of conduct. The Medical Profession Act 1982 is regulated and enforced by the independent Thai Medical Council. The Act specifies that all medical graduates from local public medical schools automatically acquire practice license from the council. Those who graduate from private medical schools or foreign graduates have to take the licensing examination, which is conducted, in Thai language. Foreigners can apply for the examination provided that they graduate from a school certified by the council and have a permanent residence in Thailand.

77. Medical Malpractice Victim Fund Bill aims at improving the management of medical negligence cases and compensation for victims. The previous government forwarded the Bill to the Council of State for review, but it was never passed into law. With a new government now in place, the Bill will need to be considered by the Cabinet before it can go to Parliament for deliberation. If this Bill is passed it seeks to prevent legal wrangling and fault-finding between patients and doctors. Under the Bill, if patients are injured as a result of medical treatment, financial assistance will be provided to them. The focus is not on identifying the wrongdoer. In effect, it seems that this will operate as a no-fault compensation scheme.
78. A fund will be established for this purpose, and private hospitals will be required to contribute to the fund if they wish to be covered by the scheme. The extent to which the latest laws will boost consumer protection depends on a number of variables, such as general community awareness, the willingness of plaintiffs and their advisors to rely on these laws, and the manner in which responsible officials and authorities administer their new roles, powers and responsibilities. Therefore, the new measures' actual impact is hard to assess at this stage.

<Singapore>

(1) Professional Legal Services

79. The institutions governing the admission into and the conduct of the legal profession in Singapore are: Board of Legal Education; Supreme Court of Singapore; Law Society of Singapore; Singapore Academy of Law; and Attorney General's Chambers.
80. Lawyers in Singapore may act as both a solicitor and as an advocate, although lawyers usually specialise in one of litigation, conveyancing or corporate law. There were 3,300 lawyers in 2006. Parliament approved changes in 2009 to replace the 'pupillage' system with structured training, and to make it easier for lawyers to return to practise. Practising lawyers have a wide variety of structures in which to practise law. A lawyer may practise alone or in partnership with other lawyers or as an employed legal assistant in a law firm. The partners own the firm and the legal assistants are salaried employees. Although there are a number of large firms, the vast majority of firms are small and medium-sized. Up to 1 March 1997, there was nothing to prevent a newly qualified lawyer from setting up his own law firm. This was changed in 1997 when the Legal Profession Act was amended. Lawyers admitted on or after 1 March 1997, cannot practise as a sole proprietor or partner for the first three years of practise. After 3 years of practise, lawyers can practise without any restriction as a partner or director.



81. A lawyer cannot practise as a sole proprietor, even after 3 years of practise, without completing the Law Society's Legal Practice Management Course. Under the Singapore civil justice system, the courts have the power to determine the party-party costs as well as solicitor-client costs in the taxation of costs. The courts may supervise litigation costs, whether in the context of a cost agreement between disputing parties or outside the parameters of a costs agreement. The courts supervise contentious business agreements on solicitor client costs based on the principles of fairness and reasonableness as provided for in the Legal Profession Act.
82. The judicial power of supervision over costs on the basis of fairness and reasonableness extends even to situations where a prior agreement required the client to pay higher costs as well as legal costs outside the context of costs agreements. The judiciary has put in place fairly comprehensive economic measures, whether by promulgating rules or through its court decisions, to control and manage litigation costs, including lawyers' fees, solicitor-client costs, party-party costs, court fees, and hearing fees
83. The Legal Aid Bureau of Singapore ensures equal access to justice to persons of limited means, by providing them legal aid, including representing them in court. However, an applicant must meet the means and merits tests to qualify for legal aid. To avoid a conflict of interest in criminal cases, the Bureau only provides legal aid for civil matters, which are handled by in house lawyers and assigned volunteer lawyers. The Law Society of Singapore also offers pro bono services for those that need free legal help. An important mission of the Law Society is ensuring access to justice. It offers services for most vulnerable members of society.
84. In 2007, the Law Society established the Law Society of Singapore pro bono, Learning and Support Services (PLSS) to oversee its free legal assistance efforts and programmes. PLSS is a Charity and an Institution of Public Character. The pro bono Services Office is the administrative arm of PLSS and co-ordinates all of the Law Society's free legal assistance efforts and programmes.

(2) Medical Professional Services

85. Prudent health care policies that encourage public-private participation in health care financing and provisioning have conferred on Singapore the advantage of flexible response as it faces the potentially conflicting challenges of becoming a regional medical hub attracting foreign patients and ensuring domestic access to affordable health care. The Singapore Medical Council (SMC), the Singapore Dental Council (SDC), the Singapore Nursing Board (SNB), the Singapore Pharmacy Board (SPB) and the Traditional Chinese Medicine Practitioners Board (TCMPB) are professional registration Boards under the Ministry of Health, Singapore. They maintain the registers of medical practitioners, dentists, nurses/ midwives, pharmacists and TCM practitioners respectively in Singapore. SMC in particular maintains the register of Medical Practitioners in Singapore, administers the compulsory continuing medical education (CME) programme and also governs and regulates the professional conduct and ethics of registered medical practitioners in Singapore.
86. In an effort to ensure that doctors are keeping abreast of medical advances, the Council has implemented compulsory CME with effect from 1 January 2003. The well-



established health care system comprises of 26 well equipped hospitals that includes private hospitals, public (government) hospitals and several specialist clinics, each specializing in and catering to different patient needs. Quality of care in Singapore has seen a paradigm shift from a traditional focus on structural approaches to a broader multidimensional concept, which includes the monitoring of clinical indicators and medical errors. Strong political commitment and institutional capacities have been important factors for making the transition. Patients in Singapore have complete freedom of choice of providers.

87. Primary health care is easily accessible through private medical practitioners (80%) and government outpatient polyclinics (20%). and specialty centres providing 11,798 beds (ratio of 3.7 beds per 1000 population). A first nationwide survey¹¹ to gather feedback from patients recently discharged from public hospitals revealed some interesting results. Overall, 80% of patients were satisfied or very satisfied with their recent stay. It was found that outcome satisfaction and care satisfaction were consistently more important to patients than service satisfaction, in that order. However, overall satisfaction was most strongly determined by care satisfaction, followed by outcome satisfaction. Patients' experiences with doctors and nurses were the strongest predictors of care satisfaction.

(3) Laws on Professional Services

88. The Medical Profession is regulated under the Medical Registration Act, Singapore Medical Council is a statutory board under the Ministry of Health. The council, maintains the Register of Medical Practitioners in Singapore, administers the compulsory continuing medical education (CME) programme. The Singapore Medical Council also keeps a check and regulates the professional conduct and ethics of registered medical practitioners. The council also issues work certificates to registered medical practitioners.
89. With regards to registration, an application should be submitted through a local employer in Singapore. Each application is considered on its merits and then a registration certificate is issued. The council will also check the credentials of the doctor and check if any disciplinary actions have been taken against him or investigations pending against him at his last practice place. There are 4 types of registration, which can be done such as: Full Registration, Temporary Registration, Conditional Registration, and Provisional Registration. Under the Traditional Chinese Medicine Practitioners Act, the Traditional Chinese Medicine Practitioners Board administers the registration of traditional Chinese medicine practitioners that can also suspend or cancel registration and impose financial penalties The Dental Registration Act empowers the Singapore Dental Council to administer the registration of dentists and oral health therapists, to also suspend or revoke registration and impose financial penalties
90. Legal Profession under the Legal Profession Act, the Law Society of Singapore can intervene in the solicitor's practice. The Society can also determine the costs (fees) a solicitor is entitled to in respect of his services and order compensation to be paid to the consumer (client)



<Republic of the Philippines>

(1) Legal Professional Services

91. The Integrated Bar of the Philippines is the national organisation of lawyers in the country. It is the mandatory bar association for Filipino lawyers. Currently, it has approximately 40,000 members. The Philippines limit the practice of law to Filipino citizens and even limit the practice of the profession to residents of the Philippines, and to those who completed the required legal education in the country. Thus, the practice of law here is still dominated by small firms and lone practitioners. While the Philippine Constitution and existing Rules of Court may seem to be barriers to cross border legal services in the country, the fact is, the Philippine jurisprudence does recognise the possibility of liberalisation in the legal profession.¹⁸ In 2003, there were about four million families in the Philippines who are poor and where the daily per capita income is only PhP53, a little over USD1.
92. The costs of litigation to the poor are many. Litigation involves the hiring of competent lawyer who must be paid for every hearing attended. The poor, on the other hand, will be deprived of income for each day of hearing, and poor persons accused of crimes lose income during their detention.¹⁹ Thus, the irony of life is that in general, the poor do not file cases to get justice; they are usually sued and are left to hope for justice to prevail. Under the Supreme Court of the Philippines, there is the Public Attorney's Office (PAO) which provides indigent litigants, the marginalised and underprivileged members of the society free access to courts. This is in consonance with the Constitutional mandate that 'free access to courts shall not be denied to any person by reason of poverty.'
93. However, this office is usually overburdened with cases. At present, there are 1,048 lawyers working for PAO's 16 regional offices and 257 district and sub-district offices. Of these, 25 lawyers work on cases appealed before the Court of Appeals and the Supreme Court. The country has 2,225 courts nationwide and there is one PAO lawyer assigned to two to four courts.²⁰ 18 Prof. H. Harry Roque Jr. 'Globalisation of legal services: Challenges and Possibilities in the Philippine Setting'.

(2) Medical Professional Services

94. The Professional Regulation Commission (PRC) is the government agency responsible for regulating and supervising the practice of professional individuals according to knowledge base and practice.
95. A registered doctor from abroad cannot legally practice medicine in the Philippines, except in such charitable events that are allowed only from time to time with special permission. There are an estimated 90,370 physicians or 1 per every 833 people, 480,910 nurses, 43,220 dentists, and 1 hospital bed per every 769 people.¹⁶ Retention of skilled practitioners is a problem, 70% of nursing graduates go overseas to work.
96. There are many reports of healthcare malpractices in the internet. In the absence of a medical malpractice law, the number of medical malpractices is expected to increase. However, this research has not found a database that captures the scope of this issue.



(3) Laws on Professional Services

97. The Philippine Regulation Commission (PRC) is mandated to regulate and supervise the practice of the professionals who constitute the highly skilled manpower of the country. In the past, PRC was tagged as the cradle of anomalies and fixing activities. Posing even greater challenges are the recent international developments brought about by globalization, liberalization of trade in services, and information technology which made PRC's mandate beyond licensing powers but sustaining a corps of world-class, technical proficient, and ethically competent Filipino professionals as well.
98. The enactment of the PRC Modernization Act of 2000 strengthened PRC with the appropriate provisions to „nurture Filipino Professionals towards technical proficiency and civic responsibility in the service of the Filipino nation. Since the research focuses on the legal and medical professions, below are some relevant laws and codes of conducts: The Philippine Medical Act of 1959, The Philippine Dental Act of 1965. RA 6397, 1971, an act providing for the integration of the Philippine Bar. Philippine Nursing Act of 2002. The Philippine Midwifery Act of 1992. Code of Ethics of the Board of Medicine. Code of Ethics of the Board of Dentistry, Code of Ethics of the Board of Midwifery, Code of Professional.

<Socialist Republic of Vietnam>

(1) Legal Professional Services

99. 2010, there were around 5,250 practicing lawyers and 2,000 trainee lawyers in Vietnam. Given the population size of the country, the ratio of lawyers is very low in comparison to its almost 90 million populations. Many people in rural areas have neither a habit nor any knowledge about access to legal service. In 1995, foreign lawyers have been allowed to practice law in the country.

(2) Medical Professional Services

100. In terms of access to medical services, the country faces a severe shortage of doctors. Doctors graduating from public schools mostly take jobs in non-healthcare fields and multinationals which pay more than the average public hospitals. On top of the above issues, access to both legal and medical services are hindered by high cost of professional services. Medical services are also often associated with unethical drug marketing and shortage of competent hospitals.

(3) Laws on professional services

101. The registration and practice of private medical practitioners have legal basis governing the profession under Act No. 7/2003/PL-UBTVQH11 and Code of Medical Ethics. On legal practice, the Provisional Government of the country issued a Decree on the Organisation of Lawyers' Associations on 10 October 1945, Under this Decree, those lawyers' associations that were previously established under the Decree of 25 May 1930 of the former regime, could be maintained. But the Provisional Government's Decree introduced important changes related to the conditions for becoming a lawyer and a lawyer's rights.



102. Under the new Decree, the lawyer must have Vietnamese nationality and he could counsel for the defence at all courts from the provincial level up and at military courts. In principle, the 1945 Decree was implemented up until after 1987 with the approval of the Ordinance on Lawyers' Organisations.
103. This was the first legal document that had quite comprehensive provisions on issues related to lawyers and lawyers' associations. The Ordinance stipulated that the state would encourage and assist in the establishment of lawyers' organisations and the professional work of lawyers; lawyers' organisations and lawyers have the right to assist citizens and other organisations in legal matters.
104. Also according to the Ordinance, those that meet the following criteria can join a bar association:
- Vietnamese citizen
 - Have good qualities and morals
 - Have attended a university of law or possess an equivalent legal knowledge
- those that meet the above-mentioned criteria and want to become a lawyer must apply to join a bar association and their applications must be approved by a general conference of the bar association.



Appendix II. Action for future ASEAN consumer protection measures

1. Throughout this module, there are references to the importance of sound internal complaints handling and external redress schemes for resolution of consumer disputes in relation to professional services. Models can take many forms and depend on the level of resources available in an ASEAN member state as well as level of development and capacity for government agencies to implement and monitor them. A further consideration is the parent must of providers of professional services to participate in the process.
2. No one model or scheme will suit all circumstances however there are a range which should provide suitable examples for every AMS. Presented below is a description of models ranging from codes of practice through to cross border complaint and redress schemes. The ASEAN website contains full details of the models and how they are derived, these charts assist with selection and implementation.

<Framework and criteria for assessing consumer protection models>

3. The models were derived from six internationally respected papers on internal complaint handling system and nine on external consumer redress schemes. In analysing best practice approaches to redress, the framework identified 10 principles of internal complaint handling and for each principal a set of features which demonstrate that the principle is being correctly interpreted and employed. In relation to external redress schemes, seven principles were identified and related features.
4. The framework output was subjected to intensive scrutiny and development before completion as an ASEAN document. Participants in the development and review process concluded that some of the principles and features were repetitive and needed to be blended while the language used to describe others did not readily transfer to the local market setting. As a result of the consultative meeting, the framework output was amended to better reflect the circumstances of ASEAN market conditions. A further result of this workshop analysis was that there were many positive experiences to share between AMS in order to ensure that complaints are properly addressed and consumer redress reaches all levels of society. Innovative measures such as distribution of redress complaint forms through a wide range of retail outlets and service stations in Thailand and cooperative partnerships in rural and remote areas to allow all consumers access to redress bodies were noted.

<Assessment of existing complaint and redress systems>

5. Following the development of objective criteria for evaluating internal complaint handling systems and external redress schemes, the consultants who prepared the models document, undertook an intensive period of fieldwork in three nominated AMS. They were; Thailand, Malaysia and Singapore. In addition, the consultants carried out research in the Republic of Korea and Australia as external reference country in which to apply the criteria. The methodology adopted was to develop and administer a detailed questionnaire which sought to analyse a wide range of complaint and redress mechanism to determine the presence of the principles and features identified in the appendix. Approximately 30 agencies and organisations were studied and large



amounts of information were obtained about the establishment and legal structure together with operating principles and features.

6. The main result from the fieldwork was that the consultants discovered an abundance of examples of organisations both within ASEAN as well as the two reference countries which exhibited the desirable principles and features. In arranging interviews however it was found to be very difficult to find private sector bodies with internal complaint handling systems to review and the case studies used in the assessment report rely on a number of public sector bodies together with desk research from ASEAN jurisdictions and more detailed research in the Republic of Korea and Australia.
7. As with the framework and criteria for assessing consumer protection models, the assessment report of existing complaint and redress systems was extensively examined and debated

<Redress mechanism models>

8. Consultants developed internal complaint handling system and external consumer redress scheme models. The Models are for national consumer protection agencies, regulatory institutions, industry Ombudsmen, Small Claims Courts or Tribunals and for business complaint system operators. The Models are based on identified international best practices and feedback from the first consultative meeting.
9. A consultative meeting, held in Jakarta Indonesia on October 9-10, 2013, considered draft versions of the models. To ensure contextualisation, special emphasis was given to the appropriateness for implementation in local settings within the AMS.
10. During the consultative meeting, a number of AMS questioned the absence of specific or prescriptive recommendations for model selection and implementation. This was the subject of extensive conversation and the consultants pointed out that as each AMS has a different political system, administrative system and cultural context. It is, therefore, not the task of this project to design a consumer redress system that fits directly into any one of the AMS's systems of government; but rather to design models, based on frameworks and principles, that can be adapted to any system. The agreed result from the second consultative meeting was that the consultants undertook to incorporate in this policy paper some specific recommendations which if adopted and implemented may lead to swift and positive uptake of best practice consumer redress mechanisms.

<Guidelines for selecting appropriate models>

11. As current levels of consumer protection, vary amongst AMS and as levels of resource and expertise differ, there is no single model of internal complaint handling system or external consumer redress scheme which will suit all AMS. The guideline therefore sets out steps which may be taken to determine the current consumer protection framework of an AMS and to identify possible steps which if implemented will lead to better or best practice levels of protection for consumers. The appended guideline has been prepared to assist consumer policy officials from ASEAN Member States (AMS) to identify appropriate models for internal complaint handling systems and external redress schemes for implementation in their jurisdiction. The Guidelines include an overview of



the importance of consumer policy and recent developments in consumer protection in the ASEAN Economic Community. It identifies an important set of resources which will equip consumer officials to identify appropriate models for internal complaint handling systems and external redress schemes best suited to the needs of particular AMS. Following an overview of the importance of consumer policy and an update on recent consumer protection developments within ASEAN, the guidelines set out a model for internal complaint handling systems, 4 models for external redress schemes, a model for the encouragement of private organisations to improve consumer complaints system and finally a model for cross-border redress.

12. The overall Purpose of the Guideline is to provide implementation approach options for each model. The resulting Guidelines for AMS on selecting and implementing the various models is the result.
13. The Guidelines will enable decision makers in each AMS to consider their own context. For example, consumer redress options can range from actions in the courts of the country concerned, applications to complaints tribunals and small claims courts that are part of the country's judicial system, through public or industry dispute resolution (often called Ombudsman schemes for particular industries, to more informal alternative dispute resolution (ADR) schemes, involving conciliation or mediation.

<Implementation & Support>

14. During the course of this project, a number of suggestions have come forward as to how best models for regulation enforcement and consumer redress in respect of the provision of professional services in ASEAN might be implemented. During the process of validation of this training module, a panel of ASEAN consumer experts considered that the following suggestions were worthy of further consideration. Note that none of these ideas are new or unique, they arose during the research which led to the Road mapping report and subsequently the research that led to development of the models for internal complaint handling and external redress schemes. More information on both of these projects can be obtained from the ASEAN website.
- 14, Policy and Implementation Helpdesk Selection and implementation of appropriate models for internal complaint handling systems and external consumer redress schemes is a complex matter. As noted in the guidelines, AMS are at different stages of economic development and have differing needs and capacities for the implementation of the models. In addition, within individual AMS, some sectors of government or business may already have well-functioning complaint handling and redress schemes while in other sectors they may be absent or in need of upgrading to best practice. It is recommended that in considering this paper, the ACCP agrees to the establishment of a policy and implementation helpdesk and resource database website. The implementation help desk would consist of individuals (drawn from the staff of the Secretariat or perhaps from an AMS government department or agency) with particular skills or experience who could advise on procedural matters in relation to implementation.



<Resource Data-Base Website>

15. The main sources of information which would be provided by the helpdesk would come from the second element of these recommendations, that is, the establishment of a resource database website.
16. Throughout the currency of this project, numerous reports have been cited and referenced. Key output documents themselves constitute a large amount of useful implementation information. When added to the already large output of previous AADCP projects, this is a most valuable and potentially useful resource for AMS in the implementation phase of models for internal complaint handling systems and external consumer redress schemes.
17. It is recommended that in considering this paper, the ACCP agrees to the establishment of a resource database website which may be hosted on an ACCP server, on that of an AMS member government or agency or in the main website of the CCPID.
18. An example of useful information is the extensive review of consumer redress mechanisms in ASEAN member states. The source for this chapter was a previous AADCP project, the roadmap for ASEAN consumer protection. It would be highly desirable for any AMS prior to developing new policies or the passage of new laws to consult such a resource and make contact with other AMS who have already undertaken much of the hard work.
19. In addition to the incorporation of already existing research information on consumer policy and redress, this resource database website would also serve as a location for future research on other projects as it is undertaken. In this way consumer policy officials from throughout ASEAN would know where to go to seek up-to-date and relevant information while other researchers could benefit from work of a similar policy character to aid in more effective outcomes for their projects.

<Establishment of an Online Network for Co-Operation & Support in implementation>

20. Establishing a new network is a further suggestion for the effective implementation of models for internal complaint handling systems and external consumer redress schemes. The new network would ideally use online and social media technology to link policy official's consumer groups and interested business people across ASEAN in further refining and implementing the models. A possible platform for such an online network could come from building on the considerable work already undertaken on behalf of ACCP by Malaysia in relation to the Working Group on Cross-Border Consumer Redress.
21. As can be seen from the assessment report, there are already a number of internal complaint handling systems and external consumer redress schemes working effectively in the ASEAN region. During the course of fieldwork, the consultants were encouraged by strong expressions of support from many of the organisations and agencies reviewed, for the possibilities of assisting other AMS in their journey to implementation of models.



22. Networks could be formed of just two or three AMS right up to networks of all 10 on particular themes or even focusing on a specific model. For example, effective implementation of model seven, “A private organisation to assist in the improvement of complaint handling systems” would require cooperation throughout ASEAN to really take off. And in network of officials and interested people could carry forward such work with a minimum of formality and a maximum of application. Such networks could also be augmented by the participation of government agencies from outside ASEAN whenever network members thought it important to gain wider experience.
23. It is therefore recommended that in considering this policy paper, the next meeting of ACCP endorse the idea of an online network for co-operation and support in implementation and launch one or more groups to carry the concept further.

<Nomination of a lead AMS or Agency to act as Reference Point or Champion for Model Implementation>

24. To build on and spread current good practices in the implementation of models for internal complaint handling systems and external consumer redress schemes, it is recommended that ACCP encourage AMS governments or agencies to nominate as a lead agency for particular models or to act as reference point or champions for model implementation.
25. There are many examples of government departments and agencies operating systems and schemes which contain a considerable proportion of the principles and features found to be desirable in models and it seems a desirable and logical step that more advanced AMS could share their experiences with less advanced ones.
26. By way of analogy, the Organisation for Economic Cooperation and Development (OECD) Consumer Policy Committee has for several decades operated as a support network for countries that have more recently come to implement consumer law and policy. On innumerable occasions member states with highly developed schemes and expertise as well as a deep resource base of experience have shared these with newer countries to the mutual benefit of all.
27. During the course of the fieldwork in fabric 2013, the consultants noted that a number of government departments and agencies are already engaged in some form of cooperative work with other AMS. Such arrangements would be illogical place to start a wider lead agency, reference point or model champion initiative.

<ASEAN wide and sub-regional forums for implementation>

28. The goals of the ASEAN Economic Blueprint and the work towards an ASEAN Economic Community are built on a common assumption of cooperation and cross-border consistency between laws, policies and administration. This is particularly true of consumer protection as trade between AMS grows rapidly and tourism and commercial movement will rapidly grow and AMS citizens will be relying on market rules and protections.



29. Earlier recommendations relate to implementation of individual models and are largely concerned with cooperation between government policy officials. To be successful however consumer laws and policies also need the general endorsement and encouragement from consumer groups and business and an important part of implementation is to ensure wide dissemination of goals and progress across communities.
30. It is recommended that the CCPID Institute a regular annual consumer policy conference in which all key policy and implementation developments each year are highlighted and discussed. It is acknowledging that there are already a considerable number of meetings of the policy officials, however there are not many opportunities for consumer groups and businesses to meet with government officials at a level and for a sufficient period to fully discuss policy developments.

<An ASEAN Facility for Consumer Protection>

31. Consumer protection is still a relatively new area of ASEAN regional cooperation.
32. The ACCP, and its three Working Groups, serve as the focal point for the implementation and monitoring of regional arrangements and mechanisms on, and to foster the sustainable development of consumer protection in ASEAN.
33. With a very large workload covering competition law and policy, consumer protection and intellectual property, the CCPID is not currently equipped to assist AMS in policy implementation.
34. At the AMS level, the ACCP has adopted a strong strategic approach towards consumer protection in order to meet the targets under the AEC blueprint.
35. It is recommended that the ACCP consider the desirability of extending the capacity of CCPID to assist in the training and development of consumer officials throughout ASEAN and to have the capacity to provide some expert services as individual AMS seek to implement policies. In particular, the selection and implementation of internal complaint handling systems and external redress schemes is one such project. An alternative to an extension of the capacity of CCPID would be the creation of an ASEAN facility for consumer protection which might be attached to ACCP.



About the consultant:



Mr. Allan Asher a Barrister and Solicitor is a lifelong campaigner for consumer protection, human rights, fairness and equitable development. Currently serving as Chair of the Foundation for Effective Markets and Governance (FEMAG) and a member of the Board of Choice, Allan is a visitor at the ANU Regulatory Institutions Network and has been involved in consumer protection and governance projects across Asia the Pacific and Southeast Asia since 1985. Allan was Deputy Chair of the Australian Competition and Consumer Commission and a senior executive of The Australian Consumers Association (Choice), a board member of the UK Office of Fair Trading and Commonwealth Ombudsman.