



POLICY BRIEF

**ASEAN Capacity Building Roadmap for
Consumer Protection 2020-2025**

Table of Contents

A	Overview of Policy Brief	3
B	ASEAN Capacity Building Roadmap for Consumer Protection (2020-2025) (Roadmap 2015)	3
C	Capacity Building Tools	4
	Capacity building workshops	4
	Technical experts	4
	Technical and mentoring assistance	4
	Policy development advice	5
	Legal drafting guidance	5
	Staff secondments and expert placements	5
	Needs driven capacity building programs	5
	Online education and e-learning modules	5
	Long-term capacity building options	5
D	Capacity Building Needs identified in the Roadmap	25
1	Policy and legislative development	6
2	Capacity building for sustainable consumption	6
3	Product safety and liability	6
4	Consumer and competition policy coordination	7
5	Consumer guarantees and warranties	7
6	Capacity building for e-commerce	7
7	Effective consumer law enforcement	8
8	Remedies and redress mechanisms	8
9	Developing non-government consumer organisations	9
10	Consumer education and empowerment	10
E	Recommendations for successful implementation	10

A. Overview of Policy Brief

ASEAN leaders have adopted an ambitious Blueprint for the creation of an ASEAN Economic community (AEC). Since 2007, when the ASEAN Committee on Consumer Protection (ACCP) was formed, substantial progress has been made in establishing national and regional policies and measures to promote the welfare of consumers.

By 2025, it is projected to be an integrated, competitive, innovative, dynamic and people centered community. Following a major review of the state of consumer protection throughout ASEAN in 2011, it was concluded that there was a clear need for capacity building for government, business and civil society to understand and implement consumer policies and laws. Although major progress has been made since 2011, to realize the aspirations of the AEC is not possible without further strengthening the consumer protection framework of Member States.

With a market of over 600 million consumers, increasing purchasing power and a young demographic profile, ASEAN represents a growing marketplace for businesses to sell their products and services.

Effective consumer protection policies and laws are essential to ensure consumers buy with trust and confidence and contribute to the achievement of the community.

This policy brief summarizes the identified needed capacity developments to secure national and regional consumer protection measures. It has the purpose of helping the ACCP and member states in promoting awareness and garnering support for a capacity development agenda.

B. ASEAN Capacity Building Roadmap for Consumer Protection 2020-2025 (Roadmap 2025)

One of the measures specified in the ASEAN Strategic Action Plan for Consumer Protection (ASAPCP) is the development of a regional five-year capacity building plan with a regional as well as sub-regional components of building block activities (Supportive Measure 2: technical assistance and capacity building). The Roadmap 2025 was derived from:

- Assessment of implementation of recommendations from Roadmap 2011 in each AMS, including tracking of the implementation status of national capacity building activities, best practice and lessons learned from the implementation.
- Analysis of trends, risks and opportunities that influence regional and national capacity building needs;
- A systematic needs analysis at regional and national levels to determine future capacity development efforts in the context of achieving the goals of the ASAPCP.
- National level assessment/ surveys to determine capacity gaps and prioritisation of areas of needs in individual AMS consumer agencies.

- Field visits to five AMS namely Cambodia, Lao PDR, Myanmar, Thailand and Vietnam
- Identification of effective and efficient interventions to address identified gaps:
 - How best to meet these needs; and
 - What form of support required at what level (regional, sub-regional and/or national)?

C. Capacity building tools

Just as there are numerous definitions of capacity building, so too are there many different tools which can be used to implement them. For the purposes of *Roadmap 2025*, the following are the set of suggested capacity building tools to be implemented between 2020-2025.

- **Capacity Building Workshops**

Planned workshops of consumer authority officials and others whose role is relevant to the achievement of the capacity building goal. A necessary element of a workshop is to improve the skills of individuals, groups, organisations, institutions and communities for carrying out key functions, solving problems, defining and achieving objectives and understanding and dealing with the requirements needed to manage these matters sustainably. The workshop should have a clear purpose with articulated learning goals and is subject to subsequent assessment and evaluation.

- **Technical Experts**

Provision for a specified period of technical experts in fields such as law commerce, product safety or finance and electronic banking. The experts would be responding to specified terms of reference and their work should be evaluated against the terms of reference.

- **Technical and Mentoring Assistance**

Provision of mentors in which a consumer protection authority or organisation with a well acknowledged expertise in a field undertakes to work alongside another consumer protection authority and transfer skills and knowledge in an informal but systematic way. Scarce resources within ASEAN may mean that the ability to provide mentors from one authority to another is very limited and may not always be possible. Such arrangements work best where there is a set of formal terms of reference and assessment criteria.

- **Policy Development Advice**

Tools for the preparation of policy advice – though not the provision of policy options. This form of capacity building trains officials in how to go about researching and preparing and presenting policy advice.

- **Legal drafting guidance**

As with guidance on the preparation of policy advice, this form of capacity building is not determinative of the legal policy to be enshrined in law. It concentrates on researching preparing and presenting options to policymakers and legislators.

- **Staff secondments and expert placements**

In this model staff from a consumer authority wishing to gain capacity building or one wishing to contribute can be placed in the office of another authority. Secondments can involve placing staff from the teaching agency in the learning one or placing developing staff in the teaching agency.

Following the secondment exercise, AMS should ensure that the knowledge gained from the secondment exercise is disseminated and shared throughout the authority.

- **Needs driven capacity building programs**

These are ad hoc responses to expressions of need by one or more AMS made to one or more AMS. As with other forms of capacity building, they are most successful where needs are identified in advance and a systematic and measurable program is implemented.

- **Online Education and e-Learning modules**

Education and training modules can take many forms and are a common and useful form of capacity building. Within the ASEAN context they are usually based on the output of research projects. To be of most value, modules should be prepared in the main languages of the recipient AMS. Modules may be in physical or virtual form and can be delivered locally or by e-learning techniques.

- **Long term Capacity Building Options**

Over the long run, the ASEAN-helps-ASEAN approach can be explored.

D. Capacity Building Needs identified under Roadmap 2025

1. Key capacity need 1 – Policy and legislative development, co-ordination and strategic planning

Although considerable progress has been made throughout AMS in the implementation of general consumer laws and development of consumer authorities, there is a need for further capacity building measures. These relate to awareness of national and international developments, linkages across policy authorities and effective training of public and non-government sector officials.

Capacity Building Priority: Understanding the latest developments in CP legislations at the regional and international level:

- Understanding consumer policy and law trends;
- Effective consultation mechanisms with consumers and business;
- Understanding mechanisms for national policy coordination; and
- Understanding mechanisms for regional policy coordination.

2. Key capacity need 2 – Sustainable Consumption

ASEAN has committed to provoke the development and implementation of policies for sustainable consumption and the integration of those policies with other policies. There is a need for capacity building within AMS consumer authorities and within non-government consumer organisations of the impact of consumption decisions on the environment. Informed consumers have an essential role in promoting consumption that is sustainable.

Capacity Building Priority: AMS need to be equipped to help consumers understand the environmental impact of their purchasing decisions and to protect consumers from misleading information.

- Sustainable Consumption – how to build it into national consumer laws, policies and strategic plans
- Developing consumer education and awareness campaigns on sustainable consumption

3. Key capacity need 3- Product safety and product liability

There is a need for the adoption of quicker and more efficient systems for notification and recall of hazardous goods and services and for better regulations to empower consumer authorities to set standards

Capacity Building Priority: Knowledge, skills and resources needed for improvements to laws and public enforcement

- Understanding product safety and product liability policy and law trends; and
- The technical skills to design and implement measures to secure consumer safety.

4. Key capacity building need 4- Consumer and competition law co-ordination

There is a need for closer coordination between authorities with overlapping responsibilities for aspects of consumer protection. This applies particularly in relation to the interaction between consumer protection and competition measures

Capacity Building priority: Understanding the nexus between consumer and competition law and policy:

- Understanding the respective roles of consumer protection and competition laws in making markets work fairly for consumers;
- Understanding competition policy and law trends; and
- Collaborating with the competition regulators on market analysis and strategic interventions

5. Key capacity building need 5- Consumer Guarantees and Warranties

Statutory guarantees of minimum safety, quality, performance and durability are a core feature of effective consumer protection. Responses from the AMS fieldwork, research and the Brainstorming Meeting for the Development of the ASEAN Capacity Building Roadmap for Consumer Protection for Consumer Protection 2019-2025, which was held from 14-15 August 2019 in Jakarta, Indonesia, point to the need for capacity building to provide officials with the necessary tools and skills to ensure consumer rights are respected.

Capacity building priority: Consumer awareness and empowerment to act in their own interests by pursuing claims against businesses where goods or services are not satisfactory:

- Understanding guarantees and warranties; and
- Developing consumer education campaigns on guarantees and warranties.

6. Key capacity building need 6- E-Commerce

Results of the AMS field work and survey responses reveal a mixed picture of implementation and coordination of consumer protection measures e-Commerce. Capacity building activities are required to reduce the gap between those AMS with up-to-date systems and those still to develop them. During the Brainstorming Meeting, capacity building measures for consumer protection in e-Commerce was the most common and highest priority requests from AMS.

Capacity building priority: ASEAN consumer agencies have the knowledge and skills to understand and implement best practice measures for consumer protection in the electronic marketplace.

- Understanding the latest advances in consumer protection in e-Commerce

7. **Key Capacity building need 7- Effective Consumer Law Enforcement**

Effective consumer law enforcement is dependent in the first instance on good consumer policy and legislation. Where the compliance pyramid model can be fully implemented all the potential forces or contributors to achieving compliance with the law can be employed. Capacity building in this area such as developing and implementing complaint handling schemes and empowering consumers to exercise their rights will allow government authorities to target bad practices which require law enforcement action.

A multi-year, multi-faceted training program and skills development package such as the Competition Law Implementation Program (CLIP)¹ for law enforcement by consumer authorities, could include:

- exchange of officials for training and experience purposes;
- exchange of consultants and experts on consumer law enforcement;
- provision of regional and international experts to deliver training courses on consumer law enforcement;
- workshop and materials to support the delivery of advocacy programs; and
- national, sub-regional and regional workshops, brainstorming sessions and skills development activities.

Capacity building priority: A central goal for consumer agencies is the capacity to enforce laws in a way that protects both consumers and honest businesses:

- Enforcing the law to secure maximum levels of compliance;
- Developing specific investigation and enforcement capacities;
- Skills for successful investigations;
- Collaborating with other national agencies on enforcement;
- Developing the capacity of consumers and businesses to gain compliance; and
- Cross border enforcement collaboration.

8. **Key capacity building need 8- Remedies and Redress Mechanisms**

AMS fieldwork, research and responses to surveys, together with the results of the Brainstorming Meeting shows a need for capacity building to ensure ASEAN

¹ <https://www.accc.gov.au/about-us/international-relations/competition-law-implementation-program-clip>

consumers have adequate access to remedies and redress mechanisms. Specific capacity building is needed to ensure access to appropriate and convenient sources of advice and redress including alternative dispute resolution.

Capacity building priority: Closely associated with effective enforcement, consumer agencies should have the ability to deliver.

- Collaborating with other complaint/dispute handling agencies and establishing no wrong door systems;
- Developing on-line dispute resolution systems and competencies;
- Understanding the role of codes - when they can be effective supplements to the law; and
- Understanding non-statutory regulatory schemes.

9. Key capacity need 9 – The development and engagement of non-government consumer organisations

Capacity building in this area is for both government officials and members of consumer associations. For both it is important to understand the contribution associations have made in many countries for many decades in the following four modes as adopted by the United Nations of the Guidelines on Consumer Protection (UNGCP):

MODE 1 - Product testing/correcting information asymmetry

Significant in many developed countries, this mode has been extremely limited in developing countries. As already noted, in developed countries it is largely the middle class that is prepared to pay for information on consumer products.

MODE 2 - Engaging in the public policy debate and using the court system

In developing countries some consumer groups have proved their capabilities in engaging in the public policy debate. In most countries there do not appear to be any significant obstacles to this kind of action other than having the resources to research issues adequately and to network amongst groups and run publicity campaigns.

MODE 3 - Organising nationally and internationally to develop capacity

The growth of national and regional consumer organisations is an important step in giving a voice in consumer protection matters. Throughout ASEAN there are positive developments within non-government consumer organisations. However, in some countries the consumer movement is not so organised

MODE 4 - Collaborating with the corporate world

In recent years, individual businesses and industry associations have sought to work with consumer organisations to improve the operation of markets. In developing countries where there are limited resources for governments to devote to consumer protection consumer groups could take advantage of opportunities to work on

projects jointly with businesses to improve outcomes for consumers. For such arrangements to work well, however association members need capacity building to have the skills necessary to make an effective contribution.

Capacity building priority: The development of competent and active NGO's can assist government agencies in their task of protecting consumers and aids the development of consumer empowerment:

- Understanding the contribution of NGO's and their potential; and
- Ability of NGOs to work effectively with national consumer agencies and policy making bodies.

10. Key capacity need 10 – Educating, empowering and informing consumers Capacity

Building Priority: The best form of consumer protection is informed consumers acting in their own interests. Building consumer capacity is cost effective and self-perpetuating.

- Designing and implementing effective programs for consumer awareness and empowerment;
- Effective use of social media; and
- Collaborating with other government agencies.

E. Recommendations to ensure successful implementation of the Roadmap 2025

Since its inception, the ASEAN Committee on Consumer Protection (ACCP) has overseen the substantial implementation of measures proposed in the 2011 roadmap and since 2016 it has accelerated its work through implementation of the ambitious ASEAN Strategic Action Plan for Consumer Protection (ASAPCP) 2025.

Measures to sustain the rate of progress made in protecting ASEAN consumers and developing well-functioning markets need to be considered. The capacity building measures proposed in Roadmap 2025 are designed to assist in strengthening regulatory frameworks and equipping empowered consumers to act in their own interests. Recommendations in this section aim to mitigate the risks of poor implementation and to enhance the capacity of consumer authorities to achieve their goals.

- A significant risk to the implementation of Roadmap 2025 is the possible lack of resources. Steps should be taken to emphasise the centrality of consumer protection in realising the goals of the AEC. Relevant steps include; building support amongst stakeholders, publicising activities and the consequent improvements in wellbeing.
- One of the most effective means of gaining commitment to a renewed capacity building agenda would be for ASEAN to promote regional, sub-regional and AMS implementation reporting against Roadmap 2025 actions. This would enable ASEAN

to produce a scorecard with relative ease and at agreed intervals to keep a spotlight on progress, implement gap filling measures and maintain momentum.

- Deep engagement with stakeholders to secure a full commitment to the program. This requires ensuring they understand and agree with the goals, are kept informed of progress and have a voice in periodic monitoring.
- Triangular Collaboration - this method of research, which is increasingly used in UN projects, calls for comparative research amongst countries of a similar stage of development or culture and using as a comparator a country with different development or cultural characteristics. This could mean for example, using as a best practice comparator and OECD country.
- Partnering arrangements where AMS, in the process of implementing capacity building measures could be twinned with agencies either within ASEAN, or outside. The outside partner could share expertise, and perhaps even resources, in implementation of the measures.
- To build the capacity of consumer authorities and encourage sustainability of measures proposed in the new Roadmap, ACCP and AMS authorities should build partnerships between consumer groups from within ASEAN. Articulate and grounded input from civil society can be invaluable for consumer authorities facing information gaps.
- Online mentoring of AMS authorities is another possible methodology for cost-effective and high-quality protection against poor implementation of capacity building measures.
- A further measure to reduce the risk of poor implementation while enhancing the capacity of consumer authorities is the inclusion of consumer and producer representation when new measures are being planned. This technique is a valuable way of ensuring community voices are heard and is a common feature in modern consumer protection systems.
- To improve the implementation of capacity building measures for sustainable consumption, the strengthening of civil society groups is important so that they provide feedback on the effectiveness and prioritisation of measures. This in turn will lead to growing consumer demand for continuous improvement in consumer protection.
