

## **Feasibility Study of ASEAN Trust Mark Scheme**

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### **Final Study Report**

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## TABLE OF CONTENTS

Abstract .....	3
Executive Summary.....	4
List of Tables and Figures:.....	7
1. Section A – Background to Study / Scope.....	8
2. Section B – Defining a Trust Mark and its Relevance.....	11
2.1 What is a Trust Mark? .....	11
2.2 Why a Trust Mark?.....	12
<i>Build Trust</i> .....	12
2.3 Who administers a Trust Mark? .....	15
3. Section C – Reference and Resource Materials Reviewed.....	17
4. Section D – Available Trust Mark Schemes .....	18
4.1 Overview .....	18
4.2 Features of Existing Schemes .....	18
4.3 Key characteristics of Existing Schemes .....	30
4.3.2 Key players in the Trust Mark scheme .....	30
4.3.3 Value of scheme: What benefits do the Trust Mark give to both e-shops and the consumer? .....	30
4.3.4 Voluntary or mandatory .....	32
4.3.5 Organisation(s) administering the Trust Mark: Government authority vs private sector organisation / for-profit vs non-profit.....	32
4.3.7 Formal approval by an accreditation scheme: Is there any auditing or certification by external parties?.....	35
4.3.8 Criteria for obtaining Trust Mark: What criteria must a business meet to gain the Trust Mark? .....	36
4.3.9 Funding: Private vs Public funding.....	38
4.3.10 Authority: Is the Trust Mark established by any law or regulation? .....	42
4.3.11 Monitoring body: Who is responsible for monitoring compliance with the Trust Mark scheme? .....	42
4.3.12 Consequence of non-compliance with Trust Mark criteria .....	43
4.4 Essential Must-Have Characteristics.....	43
5. Section E – Recommendations for ASEAN Trust Mark .....	47
6. Section F – Guidance on Implementation of the ASEAN Trust Mark Scheme .....	68
6.1. Trust Mark criteria of the ASEAN Trust Mark Scheme .....	68
6.2. Required domestic legal/regulatory reform and strengthening AMS capacity/capability for implementing the Trust Mark Scheme.....	73
ANNEX A – Consolidated Findings On E-Commerce Trust Mark Schemes .....	76
ANNEX B – Samples Of Trust Mark Criteria From Existing E-Commerce Trust Mark Schemes .....	138
ANNEX C – Consumer Protection, E-Commerce And Data Protection Laws In ASEAN .....	180
Annex D – Table of Comments from AMS and Responses .....	182

## RESPONSE TO AADCP REQUEST FOR THE FEASIBILITY STUDY OF ASEAN TRUST MARK SCHEME

### Abstract

The Feasibility Study of ASEAN Trust Mark Scheme (“**Study**”) was launched by the ASEAN Secretariat (“**ASEC**”) under the ASEAN Comprehensive Recovery Framework (“**ACRF**”). The Study is sanctioned by the ASEAN Coordinating Committee on E-Commerce (“**ACCEC**”) and supported by the Australian Government under the ASEAN-Australia Development Cooperation Program Phase II programme. The development of guidelines for the ASEAN Trust Mark scheme is also part of the Work Plan on the Implementation of ASEAN Agreement on Electronic Commerce.

The key objective of the Study is to assess the costs and benefits of implementing a potential ASEAN Trust Mark Scheme for E-Commerce (“**Scheme**”), provide an understanding of the existing national trust mark mechanisms within ASEAN, as well as provide policy options for the introduction of the Scheme for ASEAN Member States’ (“**AMS**”) consideration. In the context of this Study, ‘e-Commerce’ refers to the undertaking of trade online between a buyer and a seller.

The methodology for this Study comprises conducting extensive literature review of existing national and regional e-commerce trust mark schemes in each AMS and holding stakeholder consultations with four key groups of stakeholders (i.e. selected consumer associations, trust mark providers, trade associations and e-shops), to come up with preliminary observations and recommendations for implementing the Scheme. The preliminary observation and recommendations were then shared with AMS representatives to obtain their feedback. All feedback received was analysed and to the extent relevant and appropriate incorporated into the Study.

Based on the foregoing methodology, this Study concludes that there is currently no operational regional e-commerce trust mark scheme at the ASEAN level, and that the characteristics, scope, degree of implementation, compliance and level of enforcement of national e-commerce-related trust mark schemes vary across the different AMS. This is notwithstanding that a regional e-commerce trust mark scheme will likely be beneficial to both consumers and e-shops. This Study recommends that the Scheme be operationalised as a dual-layered accreditation scheme, where a trusted regional body such as ASEAN (or a department within ASEAN) designs a set of criteria for obtaining the trust mark under the Scheme at the ASEAN level. Yet to be accredited at the ASEAN level, it is contemplated that the responsibility for verifying and monitoring compliance is in the first instance managed by national supervisory or competent bodies, in a way analogous to the existing regional e-commerce trust mark scheme in Europe.

## Executive Summary

The e-commerce sector has proven to be a big driver of economic growth in ASEAN, with the size of ASEAN's digital economy expected to reach 8.5% of the region's GDP in 2025 as compared to 1.3% in 2015.<sup>1</sup> This digitalisation trend is further accelerated by the ongoing COVID-19 pandemic – online transactions are increasingly becoming the norm given the frequent movement restrictions or 'lock-downs' imposed by governments in order to curtail the spread of the disease.

ASEAN has long recognised the potential of e-commerce in the region. The initiative to implement the Scheme was specifically set out in the 2020 ACRF in recognition of the value it will bring in, amongst others, harmonising the AMS governments' respective e-commerce legislations and reducing uncertainty and cost of online transactions for consumers which will in turn bolster the volume of transactions with e-shops awarded under the Scheme. ASEAN, via the ACCEC and ASEC, has commissioned the Study to determine the costs and benefits of the Scheme, obtain an understanding of existing national trust mark mechanisms within ASEAN, and receive policy recommendations for operationalising the Scheme.

The initial conclusions in the Study were informed by desktop research into existing e-commerce-related trust mark schemes in each AMS and other selected jurisdictions. The literature indicates that there is currently no operational regional e-commerce trust mark scheme at the ASEAN level, and that the characteristics, scope, degree of implementation, compliance and level of enforcement of national e-commerce-related trust mark schemes vary across the different AMS. Specifically, whereas Malaysia, Philippines, Singapore, Thailand and Vietnam have existing e-commerce trust mark schemes, Brunei, Cambodia, Laos and Myanmar do not (whilst Laos has already enacted laws and regulations for a compulsory e-commerce trust mark, it is still in the process of developing key infrastructure to enforce such laws and regulations). Indonesia does not have an e-commerce trust mark scheme *per se* but has a mandated certification scheme for all electronic system operators, which includes businesses.

This is so even though desktop research and stakeholder consultation reveal that there is demand from consumers for e-commerce trust marks, as consumers are more willing to enter into transactions with e-shops that are awarded such trust marks. The key motivation stems from a need for greater trust, which in the e-commerce world is difficult to ascertain given the information asymmetry that exists between e-shop and consumer. To bolster trust and the seeming behaviour of consumers who look to effective and truthful communications by e-shops and draw inferences therefrom, the Scheme is apt. Indeed, this directly aligns with one of the key goals of implementing the Scheme, which is to increase consumer confidence in e-shops in ASEAN and translate such confidence into greater volume of e-commerce transactions.

Given the purpose of the Study, special attention was paid to regional trust mark schemes in the EU and Latin America to obtain insights on how a trust mark scheme can be implemented on a supranational or inter-governmental level. The research indicates that several regional and global trust mark schemes have been implemented to varying degrees of success. Funding for and publicity or credibility of the scheme have been identified as some of the factors that are likely to be most determinative of the success of the scheme.

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<sup>1</sup> Terms of Reference for Feasibility Study of ASEAN Trust Mark Scheme, ASEAN-Australia Development Cooperation Program (AADCP) ("**ASEAN Terms of Reference**"), 2021, [http://aadcp2.org/wp-content/uploads/RevisedTenderTOR\\_ASEAN-TrustMark.pdf](http://aadcp2.org/wp-content/uploads/RevisedTenderTOR_ASEAN-TrustMark.pdf) (last accessed 13/11/2021)

As the Ecommerce Europe Trust Mark scheme currently has the most visibility and perceived success as a regional e-commerce trust mark scheme, the Study's recommendations are primarily built on how the Ecommerce Europe Trust Mark scheme is operationalised. This Study concludes that the Scheme should similarly adopt a dual-layered accreditation mechanism, where a trusted regional body such as ASEAN (or a department within ASEAN) designs the criteria for obtaining the trust mark under the Scheme, but the responsibility for verifying and monitoring compliance is delegated to national supervisory or competent bodies ("**National Body**"). Such a mechanism is likely to reduce the implementation costs of the Scheme given that agencies or organisations in certain AMS already have the experience, staff, and infrastructure for implementing e-commerce trust mark schemes, albeit on a national level.

This Study also concludes that e-shops seeking to be awarded the Trust Mark under the Scheme should be accredited for compliance with a set of Trust Mark criteria that must include how the e-shop describes itself and its products, how the process and protect consumer information, and how the e-shop handles feedback and complaints. The research indicates relatively high consistency in the main criteria imposed by existing e-commerce trust mark schemes as well as from feedback received, whether from the AMS or other third parties. The Study recommends that the Scheme should similarly include criteria<sup>2</sup> for e-shops to:

- display clear information on its identity, contact details, key characteristics of products or services offered, existence of legal guarantees of conformity for goods and legal rights of withdrawal;
- ensure secure payment methods;
- comply with data protection best practices;
- allow for easy feedback / reviews to be provided by consumers;
- commit to resolve all disputes through informal means or mediation or to participate in an alternative dispute resolution process that exists within each AMS;
- provide information on an ASEAN-wide online dispute resolution ("**ODR**") platform which consumers can access to contact the e-shop and/or lodge complaints to national consumer protection authorities or associations; and
- implement and provide information on fair returns and refund policies.

In terms of funding, as an overwhelming majority of existing e-commerce Trust Mark schemes are funded by private (mostly non-profit) organisations via accreditation or membership fees, this Study concludes that the Scheme should impose accreditation fees on a sliding scale depending on factors such as the size of the e-shop, to ensure reliable funding for the Scheme while lowering barriers to entry for Micro, Small and Medium Enterprises ("**MSMEs**").

In terms of readiness for the Scheme, this Study finds that the major obstacles are:

- some degree of inconsistency across AMS in terms of the requirements under the national e-commerce and consumer protection related legislations, which can lead to difficulties in designing a set of Trust Mark criteria that will be practical for most AMS and/or lack of

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<sup>2</sup> A possible criterion on logistics, last mile delivery and customs, which are pertinent issues in cross-border trade, as well as "customers experience" – product ratings, user interface & customer support, could be considered. Save for the point on last mile delivery, which an e-shop will invariably have to outsource, the other points are aligned. On the last mile delivery, this is not something that can strictly be within the control of the e-shop just given the nature of the operations.

confidence in the Scheme in AMS where requirements under these legislations are viewed as less stringent;

- under-enforcement or perceived under-enforcement of e-commerce and consumer protection related legislations in certain AMS and uncertainties or lack of awareness regarding the consumer protection authorities or associations responsible for resolving consumer complaints, which can affect confidence in the integrity of the Scheme, if consumers aggrieved by e-shops accredited under the Scheme cannot obtain necessary assistance or resolution.

This Study however notes that a number of steps have already been taken by the various AMS to introduce new laws directed at e-commerce and consumer protection, and that ASEAN has also taken various steps on this front. The Study further concludes that these obstacles can be alleviated via, for instance, using ASEAN framework agreements (e.g. ASEAN Framework on Personal Data Protection) and international best practices instead of national legislation to inform the Trust Mark criteria to be imposed under the Scheme. Given that the ASEAN framework agreements set mid to long term harmonised standards across AMS, adopting the standards in these framework agreements indicate that the Scheme will not be vulnerable to issues posed by national legislation and that all e-shops accredited under the Scheme will receive the same degree of trust from consumers regardless of where the e-shop is based. Building on existing framework agreements and international best practices will also avoid potential conflicts between the Scheme's Trust Mark criteria and how the national legislations of AMS may develop in the future, as such conflicts can cause confusion for consumers. Allowing AMS participating in the Scheme to cooperate under a framework that encourages cross-learning across AMS will also improve enforcement practices or perception of enforcement practices. Whilst allowing for disputes to be resolved at a local level, be it through mediation or otherwise, it is also necessary to use an ASEAN-wide ODR platform as an interface through which all complaints relating to e-shops accredited under the Scheme will be automatically routed to responsible national consumer protection authorities/associations will also reduce uncertainties in the dispute resolution process and ensure trust in the Scheme (provided there is sufficient awareness of the ODR platform).

**List of Tables and Figures:**

Table 1: Administration of E-commerce Trust Mark Schemes in ASEAN .....	33
Table 2: Administration of E-commerce Trust Mark Schemes in EU, UK, Hong Kong and Latin America .....	33
Table 3: Funding Sources for E-commerce Trust Mark Schemes .....	39
Table 4: Consequences for Non-Compliance with Trust Mark Criteria .....	43
Table 5: List of Trust Mark Criteria.....	54
Table 6: Powers and Responsibilities of Regional and National Bodies .....	70
Figure 1: Evolution of e-commerce percentage of total retail in select countries .....	13
Figure 2: Recommended Accreditation Process.....	72

FINAL

## 1. Section A – Background to Study / Scope

- 1.1 The Terms of Reference for the Feasibility Study of the ASEAN Trust Mark (“**TOR**”) sets out the Background to the Study with clarity. For ease of reference, we extract the relevant portions and set it out here:

“The e-commerce sector in ASEAN grew in a remarkable trend in the past years, from merely around USD32 billion of Gross Merchandise Value (GMV) in 2015 to more than USD100 billion in 2020. The digital revenue is expected to reach 300 billion USD by 2025. As the result, the size of digital economy in ASEAN would likely to reach 8.5% of GDP in 2025, up from 1.3% in 2015. **It is estimated that the ASEAN digital integration would lift up to 1 trillion USD to the ASEAN Economy by 2025.**

The COVID-19 pandemic catalyses the on-going digital transformation in many sectors at an unprecedented pace and impact in almost all aspects of life. ... It is estimated that 8 out of 10 people in ASEAN view technology as helpful during the pandemic and has become an indispensable part of people’s daily lives. There are 40 million new internet users in 2020 alone. **According to the recent study by Google, the impact of the pandemic has increased ASEAN’s digital consumption with around 36% in the number of digital consumers.**

.... Among the initiatives in e-commerce [adopted by ASEAN Leaders during the 37th Summit in 12-15 November 2020], an ASEAN trust mark for e-commerce platforms was included, given its strategic value to provide more protection to the online commerce consumers, by providing assurance that the goods sold online are genuine, and avoid wrongful label/service description.”<sup>3</sup>

- 1.2 The TOR goes on to state that the Scheme is intended to “minimize information asymmetry between buyers and sellers so as to promote a trusted e-commerce environment by eliminating bad or unfair trade practices”. The essence of this is similar to the consumer protection laws adopted in most countries, including all of the AMS.<sup>4</sup> It is also consistent with relevant laws that deal with e-commerce which have been introduced in all AMS (except Thailand), and data protection laws which have been introduced in five of the AMS. We set out details of the relevant laws introduced at Annex A.<sup>5</sup>
- 1.3 The critical aim of the Study is that “by awarding ASEAN Trust Mark to e-commerce companies ... consumer confidence towards the companies will be strengthened, leading to the willingness of consumers in making transactions in awarded companies”.<sup>6</sup>
- 1.4 Key elements proposed in the TOR include:<sup>7</sup>

- (a) Requiring the Trust Mark Scheme to be a voluntary scheme rather than a mandatory

<sup>3</sup> See footnote 2.

<sup>4</sup> Handbook on ASEAN Consumer Protection Laws and Regulations, ASEAN Secretariat, 2018 (“**ASEAN CP Handbook**”), [https://aseanconsumer.org/file/post\\_image/Handbook%20on%20ASEAN%20Consumer%20Protection%20Laws%20and%20Regulations%20\(1\)-ilovepdf-compressed.pdf](https://aseanconsumer.org/file/post_image/Handbook%20on%20ASEAN%20Consumer%20Protection%20Laws%20and%20Regulations%20(1)-ilovepdf-compressed.pdf) (last accessed 13/11/2021)

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.



- scheme; and
- (b) To align the Trust Mark Scheme in a manner to support the alignment of AMS' respective legislation on e-commerce, with best practices to address issues relating to legal compliance, data handling, consumer protection and anti-counterfeiting.
- 1.5 To ensure consistency and “to promote the vision of ASEAN cross-border e-commerce”<sup>8</sup>, this Study has been undertaken. The aim is to have a trust mark scheme that is “suitable for ASEAN”<sup>9</sup>.
- 1.6 This Final Study Report thus focuses on our findings for the following:
- (a) Discuss the advantages, disadvantages, benefits and costs of an ASEAN Trust Mark for e-commerce (“**ASEAN Trust Mark**”);
  - (b) Provide an overview of current national trust mark schemes in the AMS;
  - (c) Review of relevant regional initiatives;
  - (d) Undertake a comparative research of functional regional and international trust marks;
  - (e) Provide practical policy recommendations for the implementation of an ASEAN Trust Mark; and
  - (f) Identify expected government measures needed to develop a workable ASEAN Trust Mark.
- 1.7 To undertake the above, and in working through this Project, we set out the approach as follows:
- (a) First, we undertook desktop research on what a Trust Mark is and what the benefits of Trust Mark are, analysing as we did this the current Trust Mark schemes in various jurisdictions and identified the common characteristics between the Trust Mark Schemes.
  - (b) Second and concurrently, we prepared a set of questions, tailored to the four key groups of stakeholders (i.e. selected consumer associations, trust mark providers, trade associations and e-shops), and sought responses on the practices and thinking of the various stakeholders we shared the information with. With some, we also held interview sessions.<sup>10</sup>
  - (c) Third, we distilled the essential must-have characteristics that a Trust Mark scheme should have.
  - (d) Fourth, we shared the Interim Report with ASEC, and obtained feedback from the various AMS, which we have reviewed and incorporated as appropriate, but ensuring that where we have not incorporated the comments, an explanation is provided (See **Annex D**).

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<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

<sup>10</sup> We have received responses from a total of 11 stakeholders (this number does not include members of ACCEC).

- (e) Fifth, we did a final sweep with a select group of stakeholders to discuss and review suggestions at a high level and confidentially to obtain final feedback.
- (f) Last, we set out our conclusions and recommendations for how the Scheme should operate in this Final Report.

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## 2. Section B – Defining a Trust Mark and its Relevance

### 2.1 What is a Trust Mark?

- 2.1.1 A Trust Mark is a third-party mark, logo, picture or symbol that is used at shop premises, which when used by e-shops would be displayed on the webpage and/or product labelling in some instances, to act as confirmation of having achieved certain standards, i.e. a certification. The aim is to increase the confidence levels of consumers as they purchase from e-shops. For clarity, e-shops do not include larger e-commerce marketplaces or platforms, such as Lazada and Amazon, which provide platforms for individual sellers to sell their goods (for a further discussion on the applicability of Trust Marks to e-commerce platforms, see paragraph 6.1.4). Rather, e-shops refer to businesses that sell their goods online on their own website. An e-shop need not service the entire ASEAN region to be eligible for the Scheme. The key purpose of a Trust Mark is to build trust between the consumer and the e-shop, which can only be done through a reduction in information asymmetry alongside protection of personal data and other sensitive information and the conclusion of the transaction through delivery of the products and or services in a manner as promised, failing which there be an effective means to resolve disputes.
- 2.1.2 The type of Trust Mark can vary in range and include one or more of the following:
- a. Declaration of best practices;
  - b. A subscription to a set of criteria ("**Trust Mark criteria**");<sup>11</sup>
  - c. Scrutiny for membership based on a certain set of criteria;
  - d. Sanctions for failure to adhere to the Trust Mark criteria;
  - e. Recourse for wrongful revocation of the Trust Mark; and
  - f. Remedies for affected customers.
- 2.1.3 Trust Marks, when applied to e-commerce transactions, are used as markers for online shoppers to identify if a particular e-commerce actor or e-shop meets a certain set of standards. E-commerce refers to electronic commerce and an e-commerce transaction has been defined by the Organisation for Economic Co-operation and Development ("**OECD**") as "the sale or purchase of goods or services, conducted over computer networks by methods specifically designed for the purpose of receiving or placing of orders".<sup>12</sup> For the purposes of this paper, given ASEC's critical aim of increasing consumer confidence in and willingness to enter into transactions with e-shops, this Project specifically looks at e-commerce transactions between businesses and consumers. Consequently, the e-commerce Trust Marks covered by this Paper focus on those that regulate online business-to-consumer ("**B2C**") transactions. That said, while business-to-business ("**B2B**") transactions are not within the scope of this Project, some of the takeaways such as in relation to governance structure and sustainable funding of Trust Marks schemes will be equally applicable should B2B transactions be an area of interest in the future.

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<sup>11</sup> Examples of Trust Mark criteria adopted by existing e-commerce trust mark schemes are set out in **Annex B**.

<sup>12</sup> Cassey Lee and Eileen Lee, ISEAS – Yusof Ishak Institute / CCCS, *E-Commerce, Competition & ASEAN Economic Integration* (2019)

- 2.1.4 For completeness, note that whether or not an e-shop has a Trust Mark, that e-shop will need to comply with all relevant legislation, including consumer protection laws to name one. Hence, the importance of the evolution of consumer protection laws within the AMS and which is effectively implemented. This is fundamental.

## 2.2 Why a Trust Mark?

### **Build Trust**

- 2.2.1 The single most important purpose of a Trust Mark, if carefully constructed and implemented, is the confidence that it boosts in e-commerce for all stakeholders involved. There has been acknowledgement of this from the various stakeholders that we have spoken to. Research also suggests that, when compared to other signifiers of trust such as third-party ratings, Trust Marks most significantly impacted perceived worthiness in an online context<sup>13</sup>.
- 2.2.2 For consumers, the Trust Mark provides assurance that the e-shop has been vetted and at minimum meets required standards by a reliable organisation. These standards would extend to there being adequate security systems in place to protect their information as well as the security of the payment process, sufficient accurate and truthful descriptors about the product and or service, and a minimum level of customer service which includes a chat service, a process to manage consumer complaints, a return policy plus handling of refunds, amongst others.
- 2.2.3 This is substantiated by the fact that responses from stakeholders indicate a high number of consumer complaints relating to Internet shopping. This had increased in the last year, i.e. 2020 and 2021, likely given the pandemic. Responses received noted that late delivery or non-delivery or loss of or non-delivery of goods purchased, misleading or deceptive conduct or misleading representations being made about goods, unreasonable sales practices, and prices or exchange disputes were the three top areas of contention in e-commerce transactions in recent years.
- 2.2.4 For e-shops, the Trust Mark acts to boost their brand through increased eyeballs arising from the marketing of the Trust Mark, perceived greater confidence provided to consumers, and hence, potentially greater sales.
- 2.2.5 Indeed, in a study on e-commerce in ASEAN, it was found that low levels of consumer trust were the main barriers to e-commerce in the region.<sup>14</sup> This was also reflected in responses received from stakeholders, with one stakeholder response specifically noting “while protection of privacy is a hygiene factor, the trustworthiness of an e-retail site is important to attract and retain customers”. A study published by the Economic Research Institute for ASEAN and East Asia (ERIA),<sup>15</sup> for example, referenced studies that online consumers lack confidence and trust in Internet shopping, and many prefer to pay cash on delivery and that this is a barrier to e-commerce adoption. Other barriers to e-commerce include consumers’ preference to go to physical stores, as well as security and privacy concerns. In a physical store, where goods are

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<sup>13</sup> Trustmarks, Objective-source Ratings, and Implied Investments in Advertising: Investigating Online Trust and the Context-Specific Nature of Internet Signals. Journal of the Academy of Marketing Science, 2006 Although this research is dated, it remains relevant.

<sup>14</sup> E-commerce Connectivity in ASEAN, Economic Research Institute for ASEAN and East Asia, 2020, [https://www.eria.org/uploads/media/E-commerce-Connectivity-in-ASEAN/0\\_E-Commerce-Connectivity-in-ASEAN\\_FINAL.pdf](https://www.eria.org/uploads/media/E-commerce-Connectivity-in-ASEAN/0_E-Commerce-Connectivity-in-ASEAN_FINAL.pdf) (last accessed 13/11/2021)

<sup>15</sup> Ibid.

involved, consumers were able to see what they get as is, whilst with an e-shop, consumers would have to draw considerable inferences about a product.

*Growth of e-commerce requires boost in consumer trust which can be brought about by Trust Mark*

- 2.2.6 Given that e-commerce is set to grow in the region due to factors such as increased connectivity, the introduction of a reliable Trust Mark can go a long way in allowing businesses in the region to further reap the vast potential of the digital world.
- 2.2.7 This is of course no mean feat and requires a careful cost-benefit analysis. In terms of cost, the introduction of a regional Trust Mark scheme is resource and time-intensive, as it requires agreement and continued coordination between the AMS. Coordination will also be required within each AMS, between various stakeholders involved and different regulatory sectors. There will also be a number of operational challenges, arising as a consequence of the different states of consumer protection in each AMS, the different capabilities and resources of each AMS, and the uneven regulatory environment across AMS (as will be expounded upon in the following sections). It is also important that the Trust Mark does not act as an additional direct or disguised restriction to trade and economic activity (e.g. constitute a barrier to entry that prevents or discourages players from entering the e-commerce market). The need to achieve a right balance in the proposed Trust Mark scheme will therefore be imperative.
- 2.2.8 Despite these challenges, it is suggested that the benefits of implementing a regional Trust Mark scheme, or at least somewhat harmonised set of standards, far outweigh the costs. In the report published by the Economic Research Institute for ASEAN and East Asia (“ERIA”), it was found that ASEAN and East Asia together have the world’s fastest-growing online market.<sup>16</sup> E-commerce revenue in ASEAN was also projected to grow to four times the regional GDP by 2023 and comprise over 40% of the global e-commerce market when combined with China and India. The potential of e-commerce in the region is immense and cannot be overstated. To tap on the full potential of e-commerce in ASEAN, it is necessary to invest in the necessary frameworks and infrastructure to bolster the sector as much as possible. On this, studies have shown that AMS’ e-commerce markets are relatively underdeveloped compared to their retail markets. Figure 1 below shows several of the AMS’ percentage of e-commerce compared to the total retail in their country. While the situation may have improved recently with a general rise in e-commerce due to COVID-19, there remains room for e-commerce markets in the region to grow further relative to their retail markets.

**Figure 1: Evolution of e-commerce percentage of total retail in select countries**

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<sup>16</sup> Ibid.

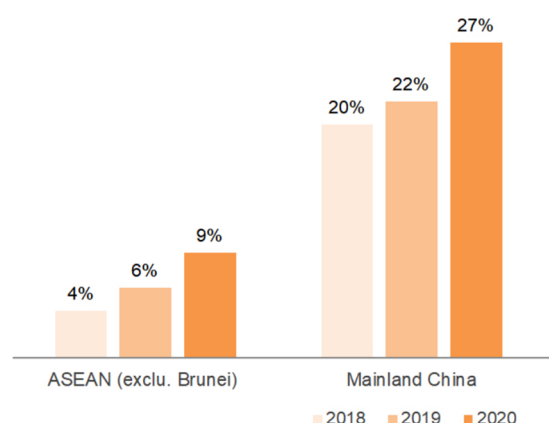
Evolution of e-commerce % of total retail in select countries



Source: Singapore's Economic Development Board ("EDB")<sup>17</sup>

### E-commerce Share

E-commerce sales as percentage of total retail sales



Source: Euromonitor Passport database

2.2.9 As stated at paragraph 2.2.5 **Error! Reference source not found.** above, one reason for this could be the lack of trust by consumers in AMS in conducting online transactions. The introduction of a Trust Mark has the potential to aid in building the trust necessary to capitalise on the potential of e-commerce in ASEAN, as indicated by our interviews with stakeholders and published research cited at paragraph 2.2.1 above.

2.2.10 While there are certain national Trust Mark schemes in place in AMS, domestic measures are arguably insufficient to fully exploit opportunities in the region. E-commerce has lowered the barriers to entry for businesses by reducing upfront costs such as physical rent and export

<sup>17</sup> E-commerce in ASEAN: Seizing Opportunities and Navigating Challenges, Economic Development Board, 2018, <https://www.edb.gov.sg/en/business-insights/insights/e-commerce-in-asean-seizing-opportunities-and-navigating-challenges.html>. (last accessed 13/11/2021)

costs. However, for businesses to expand beyond their local markets and increase the intra-regional flow of goods, a more coordinated e-commerce environment is needed. A greater degree of e-commerce harmonisation within AMS would also increase the ease of doing business and reduce regulatory uncertainty, which may spur on MSMEs in particular as they may not necessarily have the resources or inclination to invest in multiple markets with varying e-commerce landscapes. In other words, the Trust Mark will aid in boosting e-commerce in the region.

- 2.2.11 Aside from allowing businesses to capitalise on the potential of e-commerce in ASEAN, a regional Trust Mark scheme can also insulate them from unexpected changes to the business environment that may be lying in wait in the future. The current age of information has quickened the pace of digitalisation at a rate few could have predicted, and increasingly driven businesses to make the transformation from traditional brick-and-mortar stores to the digital world. E-commerce is no longer just an option for businesses that wish to thrive, but rather a necessity if they wish to survive. The COVID-19 pandemic has underscored this need and accelerated this shift, as consumers have rushed online to make purchases when they could not do so in person.
- 2.2.12 Even if a regional Trust Mark Scheme is not implemented, guidance at a national level to further bring AMS' e-commerce standards into alignment is highly recommended. Again, as the COVID-19 pandemic has shown, MSMEs are the most vulnerable to such impacts. Trust Marks can level the playing field somewhat between MSMEs and big corporations, as consumer concerns when purchasing from smaller or less well-known e-shops may be alleviated.
- 2.2.13 It is also worth noting that further integration between AMS' e-commerce arenas is in line with other ASEAN initiatives to promote digital trade in the region and harmonise e-commerce laws. For example, the ASEAN Economic Community Blueprint 2025, the ASEAN Work Program on Electronic Commerce 2017 – 2025, the Digital Framework Action Plan ("DIFAP"), and commitments towards the negotiation on the ASEAN Digital Economy Framework Agreement all support various aspects of cross-border e-commerce in the region.

## **2.3 Who administers a Trust Mark?**

- 2.3.1 There is no consistent approach in the various jurisdictions that we have reviewed which reflects that it is the public sector or the private sector that administers a Trust Mark. We have seemingly a combination of schemes, although the majority appear to be run by private sector or non-governmental agencies.
- 2.3.2 Following our research, the choice of administrator of the Trust Mark scheme must depend on the purpose that is intended is to be achieved. With the objective of striking a balance between ease of administration and seeking alignment at the regional level, our recommendation for ASEAN is for this to be administered at the ASEAN level, but working with each AMS identified administrator for the country. We contemplate that ASEAN will be responsible for designing and issuing the Trust Mark criteria that e-shops must meet to be awarded the ASEAN Trust Mark. To the extent that an e-shop wishes to be accredited at the ASEAN level, it must at least meet the Trust Mark criteria.
- 2.3.3 For AMS with existing national Trust Marks, the Scheme does not dictate whether such national Trust Marks can be pitched at a high or lower level. This is a choice left to each AMS; but what it is clear is that to obtain the ASEAN Trust Mark, the e-shop must meet the criteria as set by ASEAN. The advantage of the ASEAN Trust Mark is that it can potentially raise the

level of consumer protection regardless of where within ASEAN a customer is situated or where the e-shop is situated, for instance in AMS where the criteria for obtaining a national Trust Mark was not as stringent. It could also increase the level of intra-ASEAN e-commerce.

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### 3. Section C – Reference and Resource Materials Reviewed

- 3.1 In order to determine the feasibility of the Scheme, research was undertaken to understand the existing Trust Mark landscape in ASEAN, with a focus on B2C e-commerce. Research on other prominent regions and countries (such as the EU, Hong Kong, Australia, and Latin America) was also undertaken, to provide a comparative analysis and to learn from other countries' experience.
- 3.2 The sources of the report include desktop research, academic literature and existing legal frameworks in various regions, and interviews with representatives of prominent e-commerce marketplaces, trade associations (particularly those focused on e-commerce), consumer associations, and existing e-commerce Trust Mark providers.
- 3.3 A consolidated table summarising the findings for each reviewed trust mark scheme is set out in **Annex A** to this report.

## 4. Section D – Available Trust Mark Schemes

### 4.1 Overview

4.1.1 Before setting out our recommendations on what would be appropriate for an ASEAN Trust Mark, this section reviews how Trust Mark schemes in ASEAN, the EU, Hong Kong and Latin America presently function. The key characteristics of existing Trust Mark schemes will then be identified and elaborated on. Based on the key characteristics identified, this section concludes by stating which characteristics are the most essential to a Trust Mark scheme and should be present in a proposed ASEAN Trust Mark.

### 4.2 Features of Existing Schemes

#### 4.2.1 ASEAN

4.2.1.1 There currently exists no regional scheme that applies to all AMS. The schemes discussed in this paragraph 4.2.1 are therefore based only on the domestic initiatives within AMS.

4.2.1.2 AMS countries which currently have an existing Trust Mark scheme include Malaysia, Philippines, Singapore, Thailand and Vietnam. These Trust Mark schemes are not specific to e-commerce and can apply to both e-commerce and physical retailers. These are set out in Paragraph 4.2.1.5 below.

4.2.1.3 Indonesia does not have a Trust Mark Scheme, although it has a mandated certification scheme for Electronic-System Operators (“**ESO**”s). More information on this scheme is set out at Paragraph 4.2.1.5(b) below. Cambodia also does not have a Trust Mark Scheme, although e-shops can choose to apply to the relevant ministry for an E-Commerce Trust Mark Certificate, which certifies the conformity and safety of the e-shop’s e-commerce activities.

4.2.1.4 Brunei, Laos and Myanmar make up the remaining AMS that do not have existing Trust Mark schemes in place (whilst Laos has already enacted laws and regulations for a compulsory e-commerce trust mark, it is still in the process of developing key infrastructure to enforce such laws and regulations). At a basic level, this underscores the degree of variance between AMS in terms of experience and capabilities to implement an e-commerce Trust Mark. Our discussions with [redacted] and [redacted] indicate that they are reviewing the introduction of a Trust Mark Scheme, and indeed in [redacted]’s case, the aim is to have this done by the end of 2021. We understand that the proposal is to introduce the scheme first for the brick-and-mortar world, before it is also introduced for e-commerce.

4.2.1.5 The characteristics, scope, degree of implementation, compliance and level of enforcement also vary between the countries that do have Trust Mark Schemes. We set out here a snapshot of the AMS and the state of the Trust Mark in each of the countries, as they may apply to e-shops:

- (i) Cambodia – Cambodia does not currently have a Trust Mark Scheme in place. However, under Cambodia’s Law on E-Commerce, Sub-Decree No.134, e-shops can choose to apply to the Ministry of Commerce (“**MOC**”) for an E-Commerce Trust Mark Certificate, which certifies the conformity and safety of the e-shop’s e-commerce activities.
- (ii) Indonesia – The Certificate of Competence accreditation is a mandatory scheme implemented under Government Regulation No. 71 of 2019 on the Implementation of

Electronic Systems and Transactions (“**GR 71**”) and overseen by the Minister of Communication and Informatics (“**MOCI**”). The scheme requires ESOs (as defined under GR 71) to apply for a Certificate of Competence from a certified Indonesian electronic certification operator. The purpose of this is to certify that all ESOs considered relevant under GR 71 have met minimum standards relating to the reliability and safety of electronic systems. Of note is that the scheme is not e-commerce specific and is better understood as a sectoral scheme applicable to those in the digital industry. Indonesia has also issued the Government Regulation No. 80 of 2019 on Trading through Electronic System (“**GR 80**”) which regulates broad aspects of the e-commerce business in Indonesia — from general requirement of e-commerce, operational aspect of the e-commerce players, contract processing, to protection of personal data.

- (iii) Lao PDR - Decree on e-commerce no. 296/GOV dated 12 April 2021 (“**Decree 296**”), which regulates e-commerce businesses in Lao PDR, specifies that any e-commerce platform shall apply for a business license to operate in Lao PDR. Articles 7 and 8 of Decree 296 also specifies that e-commerce vendors (i.e. e-shops) shall notify its business to the Ministry of Industry and Commerce (“**MOIC**”) and a Trust Mark will be issued to the e-shop accordingly. Under Decree 296, the MOIC, Ministry of Commerce and Tourism (“**MCT**”) and Bank of the Lao PDR (“**BOL**”) will manage the e-commerce businesses and the Trust Mark scheme jointly. However, the mandatory Trust Mark scheme under Decree 296 is not in place yet as Lao PDR is still the process of developing key infrastructures.
- (iv) Malaysia – The Malaysia Trustmark for Private Sector (“**MTPS**”) was a voluntary scheme overseen by the CyberSecurity Malaysia, an agency under the Ministry of Communications and Multimedia Malaysia (KKMM). It was introduced to promote greater safety, trust, and confidence in e-shops for consumers. The MTPS has been replaced by the MyTrustSEAL Scheme which falls under the Ministry of Communication and Multimedia and is administered by Cybersecurity Malaysia.
- (v) Philippines<sup>18</sup> – Sure Seal is a Trust Mark administered by Qartas Corp., a private, for-profit Trust Mark provider. It is a voluntary scheme that allows e-shops to become accredited, provided they meet the certification criteria. Such criteria may include ensuring no false claims have been made on its website, having appropriate legal credentials and compliance with international standards such as the International APEC Data Privacy Standards. As there are different tiers to the Trust Mark scheme, e-shops can choose between the type of certification they want to get. Accreditation for the different Trust Marks, which include Sure Seal Personal, Business or Premium, are available at different prices. It is unclear if Sure Seal is still in operation as it is suggested that Sure Seal is being reorganized to focus more on data privacy issues.<sup>19</sup>

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<sup>18</sup> Although not a Trust Mark, Philippines also has a DTI Bagwis Seal of Excellence and Certificate of Recognition which bestows recognition to brick-and-mortar retail establishments that promote the highest level of business ethics pursuant to prescribed guidelines, including the protection of consumer rights. This suggests that Philippines may have the peripheral experience and relevant structures for implementing the Scheme.

<sup>19</sup> Philippines understands that the Sure Seal ceased to exist after a few years in operation and it is unclear if plans to reintroduce the Sure Seal trust mark materialized.

but its features have been considered in this Study as Sure Seal is still listed as a member of the World Trustmark and Trade Alliance.<sup>20</sup>

- (vi) Singapore – TrustSg was a national Trust Mark scheme initiated by the National Trust Council (“**NTC**”) in conjunction with the Infocomm Development Authority of Singapore (“**IDA**”), as it was then known. It was a voluntary accreditation scheme administered by the NTC-appointed Authorised Code Owners (“**ACO**”s), CommerceNet Singapore (“**CNSG**”) and the Consumers Association of Singapore (“**CASE**”). The TrustSg scheme has since been sunset. CNSG and CASE also have their own Trust Marks (i.e. the BusinessTrust and ConsumerTrust Trust Mark for CNSG, and CaseTrust for CASE) which businesses can display. Singapore also has Trust Mark schemes specific to the area of cybersecurity – these will not be discussed in depth in this report but have been reviewed and set out in **Annex A**.
- (vii) Thailand – The Thailand Trust Mark is a voluntary government scheme overseen by the Department of International Trade Promotion (“**DITP**”) under the Ministry of Commerce, which is under the Royal Thai Government. It covers all products and services that are made in Thailand and is not limited to e-commerce. The scheme serves to certify that the trader has met certain standards, such as those relating to environmental standards, corporate social responsibility and fair labour. The Thailand Trust Mark aims to designate certified goods and services as originating in Thailand, thereby promoting Thailand as a provider of goods and services, rather than the trader (although this might be a welcome knock-on effect). In addition to the DITP’s Trust Mark scheme, Thailand’s Department of Business Development (“**DBD**”) also administers a form of Trust Mark scheme for e-commerce businesses by way of e-commerce registration. The e-commerce registration applies to the following types of businesses: (a) websites which offer purchase and sale of goods or services via the Internet; (b) Internet Service Providers; (c) web hosting providers; and (d) e-marketplaces.
- (viii) Vietnam – SafeWeb is a voluntary Trust Mark scheme overseen by the E-commerce Development Centre (“**Ecom Viet**”), a department under the Ministry of Industry and Trade. E-shops seeking accreditation must comply with standards set by Ecom Viet, such as being properly incorporated, registered, not having a history of regulatory violations and others. As SafeWeb is still a pilot scheme, Vietnam does not strictly speaking have an Trust Mark Scheme.

4.2.1.6 The characteristics and scope of the different Trust Mark schemes across AMS vary quite significantly, as can be seen from the brief discussion above and as will be elaborated on in the later sections of this report. We make a few observations about the existing state of play in AMS and its implications.

4.2.1.7 First, for existing Trust Mark schemes that are utilised to any significant degree in the different AMS (i.e. where accreditation has been issued to businesses under the scheme), the level of legitimacy each Trust Mark scheme bears varies, at least to the ordinary observer. This is due to various factors, such as whether accreditation under the scheme is paid for or not and the overseeing body of the Trust Mark scheme. These factors affect the perceived trustworthiness and value of the Trust Mark to the consumer. Thus, the mere fact that a Trust Mark Scheme

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<sup>20</sup> World Trustmark and Trade Alliance Website: <https://www.worldtrustmark.org/> (last accessed 16/11/2021)

exists in an AMS does not give rise to the implication that consumers have greater trust in the e-commerce world in relation to that AMS.

- 4.2.1.8 Second, the existence of a Trust Mark scheme in some AMS and lack thereof in others is not unusual given the varied social, political and legal landscapes, among others. Therefore, not every AMS will have the same priorities, resources, nor approach to issues. However, it is worth noting that in all AMS, consumer protection laws (alongside other relevant e-commerce and data protection laws to strengthen consumer protection) have been enacted.<sup>21</sup>
- 4.2.1.9 Last, consumer protection is seen as an important focus area in all the AMS. Several significant consumer protection initiatives include:
- (a) The ASEAN Strategic Action Plan on Consumer Protection 2016-2025 ("**ASAPCP**") has had good progress, with all the AMS have achieving 43% of the outcomes under the Strategic Goals of the ASAPCP within the first 5 years of the ASAPCP's implementation.<sup>22</sup> Given this, ASEAN had decided during the 2021 review to add several new outcomes, including developing an ASEAN Guidelines on e-Commerce ("**ASEAN e-Commerce Guidelines**") in 2022. The ASEAN e-Commerce Guidelines will provide clarity for players in e-commerce and harmonise the AMS' position with regard to various aspects of e-commerce. The robust development of the e-commerce landscape in ASEAN will enable an easier means of establishing the relevant criteria for the Scheme, thus increasing the uptake of the ASEAN Trust Mark.
  - (b) The ASEAN Alternative Dispute Resolution ("**ADR**") Guidelines for Consumer Protection ("**ASEAN ADR Guidelines**") lays the groundwork for the ASEAN ODR network that the ASEAN Committee on Consumer Protection ("**ACCP**") is aiming to establish by 2025 as part of the strategic goals under the ASAPCP.<sup>23</sup> An online complaint platform ("**ASEAN ODR Platform**") for consumers in ASEAN is already active and currently accessible via the ACCP's website.<sup>24</sup> The ASEAN ADR Guidelines assesses different approaches to ADR and considers their implementation in each AMS.<sup>25</sup> An ASEAN ODR network will aid in the promotion of an ASEAN Trust Mark by providing a low-cost and efficient way of resolving consumer disputes. This both ensures that consumers will have a viable solution in the event of a dispute and allows e-shops to have an appropriate forum to resolve any issues with customers. As this is still work in progress, as an interim measure, dispute resolution for the ASEAN Trust Mark may require coordination by the designated body within the AMS.
  - (c) The ASEAN Capacity Building Roadmap for Consumer Protection 2020-2025 ("**ASEAN Capacity Building Roadmap**") sets out the steps that ASEAN could take to build up the capacity for the staff of various consumer authorities in all the AMS. This includes holding workshops and online e-learning modules to train individuals, providing policy development advice, bringing in technical experts for specific fields (e.g. law commerce, product safety, finance, electronic banking), and mentoring assistance and staff secondments from one

<sup>21</sup> Please refer to **Annex C** for the full list of consumer protection, e-commerce and data protection laws in all AMS.

<sup>22</sup> See New ASAPCP 2025 and Implementation Schedule 2021-2025 ("**ASAPCP Schedule**") (2021): <https://aseanconsumer.org/read-publication-new-asapcp-2025-and-implementation-schedule-2021-2025> (last accessed 13/11/2021).

<sup>23</sup> See <https://aseanconsumer.org/read-publication-the-asean-alternative-dispute-resolution-adr-guidelines>

<sup>24</sup> At <https://aseanconsumer.org/consumer-complaint>

<sup>25</sup> Ibid.

AMS' consumer authority to another AMS' consumer authority. The building up of such capacity is crucial to support the development of the Scheme, as it will allow all the AMS to develop the expertise and knowledge required to run the scheme effectively. The process of building the capacity could also involve educating staff in consumer authorities on the operation of the Scheme and the sharing of how trust mark schemes are run across the various AMS.

- (d) The ASEAN Consumer Empowerment Index ("**ACEI**"), that was launched in January 2021, is a composite index calculated using answers from surveys of consumers in each AMS, with the survey considering consumer awareness, consumer skills and consumer behaviour.<sup>26</sup> The ACEI was 63.7%, meaning that consumers were moderately empowered on average across all the AMS. The Scheme thus aims to increase the ACEI by enabling consumers to make better purchasing decisions for e-commerce transactions.

4.2.1.10 Alongside consumer protection laws and initiatives, data protection laws are also seen as being critical and have been introduced in almost all the AMS. Such existing laws will be able to serve as the groundwork for putting forth a workable Scheme, as it means that e-shops in ASEAN would generally comply with data protection principles, which is an important criterion for e-commerce Trust Marks, as part of compliance with local law.

4.2.1.11 It is worth pointing out that in November 2020, all AMS adopted the ASEAN Comprehensive Recovery Framework ("**ACRF**"), that sets out the AMS' consolidated exit strategy from the COVID-19 crisis.<sup>27</sup> As part of Broad Strategy 4 of the ACRF, there are various proposed initiatives in e-commerce to accelerate inclusive digital transformation in ASEAN. Amongst them, an ASEAN e-commerce Trust Mark was explicitly considered. A regional Trust Mark scheme would therefore be wholly congruous with ASEAN goals and existing initiatives. As mentioned above at Para 2.2.10, other such initiatives include the ASEAN Economic Community Blueprint 2025, the ASEAN Work Program on Electronic Commerce 2017 - 2025, DIFAP and commitments towards the negotiation on the ASEAN Digital Economy Framework Agreement.

#### 4.2.2 European Union ("**EU**")

4.2.2.1 At the EU wide level, there are two key Trust Mark schemes which are relevant to the e-commerce sector as our research shows. The first is the Ecommerce Europe Trust Mark scheme, a 'true' and seemingly only regional e-commerce Trust Mark scheme clearly targeted at certification of e-commerce business, which certification criteria cover multiple aspects of security in e-commerce transactions. The second is the EU Trust Mark scheme, which can be better described as a sectoral Trust Mark scheme which is only targeted at a defined set of trust services (e.g. validation of electronic signatures, electronic seals or electronic time stamps) and the providers of these services.

4.2.2.2 While the latter scheme is different from the kind of scheme ASEC contemplates, we nevertheless set out our observations on both schemes in some detail here they provide good lesson points on how these regional schemes are operationalised, given that the EU and ASEAN can both be described as intergovernmental organisations.

<sup>26</sup> See The First ASEAN Consumer Empowerment Index Launched (2021): <https://aseanconsumer.org/read-publication-the-first-asean-consumer-empowerment-index-launched> (last accessed 13/11/2021).

<sup>27</sup> ASEAN Comprehensive Recovery Framework ("**ACRF**"), p. 7.



### Ecommerce Europe Trust Mark Scheme

- 4.2.2.3 The main e-commerce Trust Mark that is operative on the EU level is the Ecommerce Europe Trustmark which was first launched in September 2015. The Ecommerce Europe Trustmark scheme is overseen by Ecommerce Europe, an industry association made up of national associations involved on a non-for-profit basis with the promotion of the interests of e-commerce/online distance selling (to consumers) and over 100,000 companies selling goods and services online to consumers in Europe.<sup>28</sup> Ecommerce Europe is not a government agency and the Ecommerce Europe Trustmark scheme is a voluntary scheme.
- 4.2.2.4 The Ecommerce Europe Trustmark applies solely to business-to-consumer (“**B2C**”) selling parties and operates as a dual-layered scheme which is operationalised on a national level. That is, an e-shop that wishes to be awarded the Ecommerce Europe Trustmark must be certified by a national association within Ecommerce Europe’s network (“**Associated NA**”) that it is in compliance with the Associated NA’s Trust Mark scheme before it can be certified for compliance with the Ecommerce Europe Trustmark scheme, the criteria for which is set out in the Ecommerce Europe Code of Conduct (“**EECOC**”).<sup>29</sup> The EECOC requires a mix of compliance with legal regulations and voluntary commitments. The Ecommerce Europe Trustmark must be used jointly with the Trust Mark logo of the Associated NA.
- 4.2.2.5 All the Associated NA Trust Mark schemes within Ecommerce Europe’s network are also voluntary schemes run by non-government associations. To obtain a better understanding of how Ecommerce Europe’s dual-layered scheme works, we have also reviewed the e-commerce Trust Mark schemes run by the following Associated NAs:
- (a) **Denmark:** The Danish Associated NA in Ecommerce Europe’s network is e-market, a non-profit organisation based in Denmark. E-market was co-founded in 2000 by several non-governmental associations including the orbrugerrådet Tænk (i.e. Danish Consumer Council), HK Denmark (a trade union) and The Confederation of Danish Industry (a business association representing Danish companies).<sup>30</sup> E-market implements and oversees the e-market Trust Mark scheme, a voluntary scheme that certifies e-shops’ compliance with e-market’s set of self-developed certification criteria (“**EM Guidelines**”). To obtain the e-market Trust Mark, an e-shop must first apply to become a member of the e-market certification scheme. Upon application, e-market will assign one of its lawyers to review the applicant’s website for compliance with the EM Guidelines. A chance to take necessary corrective actions will be given, and once the lawyer verifies compliance with the EM Guidelines, the applicant can use the issued e-market Trust Mark to advertise the URL that was reviewed.
  - (b) **France:** The French Associated NA in Ecommerce Europe’s network is La Fédération du e-commerce et de la vente à distance (“**FEVAD**”), a non-profit association comprised of e-commerce and distance selling players and business that provide services to e-

<sup>28</sup> See About Ecommerce Europe: <https://ecommerce-europe.eu/about-ecommerce-europe/> (last accessed 13/11/2021).

<sup>29</sup> See Ecommerce Europe Trustmark FAQs: <https://ecommercetrustmark.eu/faqs/> (last accessed 13/11/2021) and EUROPEAN Cross-Border E-Commerce Protection for Consumers: [https://ecommercetrustmark.eu/#ction\\_one](https://ecommercetrustmark.eu/#ction_one) (last accessed 13/11/2021).

<sup>30</sup> See Stifterkreds: <https://www.emarket.dk/stifterkreds> (last accessed 13/11/2021). Note some sources have also reported that e-market was initially set up by the Danish Government – see paragraph 3.1.2.3 of EU online Trustmarks Building Digital Confidence in Europe (2012): [https://www.europarl.europa.eu/cmsdata/59814/att\\_20130416ATT64613-6395490763952948749.pdf](https://www.europarl.europa.eu/cmsdata/59814/att_20130416ATT64613-6395490763952948749.pdf) (last accessed 13/11/2021).

commerce companies.<sup>31</sup> FEVAD implements and oversees the FEVAD Trust Mark scheme, a voluntary scheme that certifies e-shops' compliance with FEVAD's set of self-developed certification criteria (the "**Quality Charter**").<sup>32</sup> An e-shop that wishes to be awarded the FEVAD trust mark must apply to become a member of FEVAD,<sup>33</sup> and undertake to comply with FEVAD's professional code and charters, including the Quality Charter. While FEVAD does not expressly state that members will be audited for compliance with the FEVAD Quality, this is presumed to be the case as new members have to wait out a probationary period before they are allowed to display the FEVAD trust mark.

- (a) **Spain:** The Spanish Associated NAs in Ecommerce Europe's network are the Spanish Association of the Digital Economy ("**Adigital**") and the Association for the Self-Regulation of Commercial Communications ("**Autocontrol**"), both non-profit associations comprised of companies and other business associations.<sup>34</sup> Autocontrol also the independent self-regulatory body of the advertising industry in Spain. Adigital and Autocontrol jointly implement and oversee the Confianza Online Trust Mark, a voluntary scheme that certifies e-shops' compliance with Confianza Online's self-developed Code of Ethics ("**COE**"). Confianza Online's COE has received numerous endorsements from Spanish public authorities, including the Spanish Data Protection Agency ("**AEPD**") which last registered the COE as a Type Code in 2009, and approved by the Consejo de Consumo de la Comunidad de Madrid (i.e. 'Consumption Council of the Community of Madrid') in 2011. The Consejo de Consumo is an information, consultation and advisory body for consumer protection matters regulated under Spanish law, and the council members include members of municipal and regional administration.<sup>35</sup>

4.2.2.6 While the criteria under each Associated NA's Trust Mark scheme differs, they typically (in a similar fashion as the EECOC) similarly oblige the e-shop to comply with relevant regulations such as in relation to data privacy, display clear product and legal information, adopt fair contractual terms, and undergo independent audits on the foregoing.<sup>36</sup> As of 31 August 2021, all of the national Trust Mark schemes associated with the Ecommerce Europe Trustmark are also voluntary schemes. Details of each reviewed Associated NA's Trust Mark scheme is set out in the table in **Annex A**.

#### Other Independent Trust Mark Providers

<sup>31</sup> See Missions et organisation (2019): <https://www.fevad.com/structure-et-organisation/> (last accessed 13/11/2021).

<sup>32</sup> The Quality Charter is accessible at [https://www.fevad.com/wp-content/uploads/2019/10/Code-pro\\_charte\\_qualite%CC%81-vf4.pdf](https://www.fevad.com/wp-content/uploads/2019/10/Code-pro_charte_qualite%CC%81-vf4.pdf) (last accessed 13/11/2021).

<sup>33</sup> See La Fevad Lance sa Nouvelle Marque de Confiance (2018): <https://www.fevad.com/decouvrez-nouveau-logo-de-fevad/> (last accessed 13/11/2021).

<sup>34</sup> See About Us: <https://www.adigital.org/quienes-somos/> (last accessed 13/11/2021) and Autocontrol: <https://www.autocontrol.es/> (last accessed 13/11/2021).

<sup>35</sup> See Consumption Council: <https://www.comunidad.madrid/servicios/consumo/consejo-consumo> (last accessed 13/11/2021).

<sup>36</sup> This is as opposed to self-declarations of commitment by the e-shop to the criteria. For instance, e-Maarket certified e-shops are audited by e-Maarket's in-house lawyers and Retail Excellence conducts mystery shoppings to determine if the e-shops under its scheme are compliant with its criteria.



4.2.2.7 Aside from the 24 Associated NAs within Ecommerce Europe's network, there are also other Trust Mark providers that are not affiliated with Ecommerce Europe. Such Trust Marks may have different criteria, depending on whether they decide to cater to a particular industry or demographic of businesses or industry.

4.2.2.8 For example, a Trust Mark provider from [redacted], provides Trust Marks primarily for Small and Medium Enterprises and thus aims to provide a Trust Mark that is more affordable than its competitors.<sup>37</sup> This affordability is achieved by conducting less comprehensive legal checks when awarding a business with its Trust Mark and by not conducting yearly compliance checks on its businesses. These two points will be elaborated in turn:

4.2.2.8.1 Legal checks – [redacted]'s Trust Mark certification process is not as rigorous compared to other Trust Marks. For example, the process does not include extensive cybersecurity and data protection checks. Instead, businesses are encouraged to obtain other cybersecurity and data protection certifications from other specialised companies. In turn, [redacted] will list that certification on the businesses' listing on their website for customers to see. This means that businesses are free to make their own decisions on whether they want to boost their profile, based on their own business plans and financial standing.

4.2.2.8.2 Lack of yearly compliance checks – Instead of checking businesses' compliance with the scheme yearly, [redacted] leaves it up to its algorithm to flag out any possible issues in customer reviews. Following that, its customer service department will check whether there is an issue. The lack of monitoring frees up time for [redacted] to focus on managing its internal dispute resolution mechanism instead. [Redacted] mediates disputes between its businesses and their consumers, and directly works with its businesses to achieve compliance.

#### EU Trust Mark Scheme

4.2.2.9 The EU Trust Mark scheme, which took effect since 1 July 2016, can be described as a voluntary accreditation scheme which aims to distinguish qualified trust service providers from non-qualified trust service providers of trust services. The scheme is given effect via Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC ("eIDAS Regulation"),<sup>38</sup> which requires EU Member States to set up supervisory bodies and processes to implement the requirements set out in the eIDAS Regulation.

4.2.2.10 Qualified trust service providers refer to those which provide trust services in line with requirements (including service security and audit requirements) under the eIDAS Regulation and have been granted the qualified status by the supervisory body of the scheme.<sup>39</sup> Trust services to which the scheme applies are specified in the eIDAS Regulation, namely, electronic services normally provided for remuneration which consist of:<sup>40</sup>

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<sup>37</sup> See [redacted].

<sup>38</sup> Accessible at [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\\_.2014.257.01.0073.01.ENG](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2014.257.01.0073.01.ENG) (last accessed 13/11/2021).

<sup>39</sup> Article 3(17) and 3(20) of eIDAS Regulation.

<sup>40</sup> Article 3(16) of eIDAS Regulation.

- (a) the creation, verification, and validation of electronic signatures, electronic seals or electronic time stamps, electronic registered delivery services and certificates related to those services, or
- (b) the creation, verification and validation of certificates for website authentication; or
- (c) the preservation of electronic signatures, seals or certificates related to those services

4.2.2.11 To start providing qualified trust services, trust service providers must submit a notification of that intention and a conformity assessment report issued by a conformity assessment body to the national supervisory body/ies of the EU Trust Mark scheme. After the supervisory body/ies verify that the trust service provider and its trust service comply with the requirements under the eIDAS Regulation, it shall grant the trust service provider and trust service the qualified status by their inclusion in a national trusted list. Qualified trust service providers can identify themselves and their qualified trust services using the EU trust mark. The specifications of the EU trust mark are set out in the Commission Implementing Regulation (EU) 2015/806 of 22 May 2015 laying down specifications relating to the form of the EU trust mark for qualified trust services ("**Implementing Regulation**").<sup>41</sup>

4.2.2.12 For the avoidance of doubt, compliance with certain requirements under the eIDAS Regulation is mandatory for all trust service providers. However, obtaining the EU trust mark, which evidences compliance with the eIDAS Regulation (including requirements applicable to qualified trust service providers only) and thus obtaining the status of a qualified trust service provider, is voluntary.

#### 4.2.3 Hong Kong

4.2.3.1 The Hong Kong Trust Mark was launched on 12 August 2016 by the Hong Kong Federation of E-Commerce ("**HKFEC**"),<sup>42</sup> an industry association made up of business entities and students and which goal is to supporting E-commerce development in Hong Kong. HKFEC is not a government agency and the Hong Kong Trust Mark scheme is a voluntary scheme.

4.2.3.2 The Hong Kong Trust Mark scheme is intended to stimulate cross border e-commerce in Hong Kong, Macau and China<sup>43</sup> - the Trust Mark awarded under this scheme is named according to region (i.e. Hong Kong Trust Mark for Hong Kong, Macau Trust Mark for Macau and China Trust Mark for Mainland China – hereinafter, 'Hong Kong Trust Mark' will be used interchangeably to refer to any and all of the foregoing Trust Marks),<sup>44</sup> but the same Code of Practice ("**HKCOP**") applies as across the three regions.

4.2.3.3 To be awarded the Hong Kong Trust Mark, the e-shop must undergo a preliminary examination (and full examination if necessary) by the HKFEC to certify its compliance with the HKCOP. Certification is then renewed annually. The HKCOP requires a mix of compliance with legal regulations and self-developed obligations.

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<sup>41</sup> Accessible at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32015R0806> (last accessed 13/11/2021).

<sup>42</sup> See <https://www.itu.int/net4/wsis/archive/stocktaking/Project/Details?projectId=1477993056> (last accessed 13/11/2021).

<sup>43</sup> See The Scheme: <https://hkfec.org/hk-trust-mark/the-scheme/> (last accessed 13/11/2021).

<sup>44</sup> See How to Apply: <https://hkfec.org/hk-trust-mark/how-to-apply/> (last accessed 13/11/2021).

4.2.3.4 Apart from the Hong Kong Trust Mark scheme, the HKFEC is also a certification partner of Safe.Shop, a global ecommerce Trust Mark established by the Ecommerce Foundation.<sup>45</sup> The Ecommerce Foundation is an independent organisation initiated by national ecommerce associations and companies from around the world.<sup>46</sup> Under this partnership, HKFEC verifies if the online shops in Hong Kong comply with the legal requirements of the Safe.Shop Global Code of Conduct or its national legislation. However, it is no longer possible to apply for the Safe.Shop Trust Mark<sup>47</sup> and badges as Safe.Shop will cease operations in mid-October 2021<sup>48</sup>, with its activities being sold to WebwinkelKeur, a Dutch ecommerce Trust Mark.<sup>49</sup> Therefore, this report will not discuss the Safe.Shop Trust Mark scheme in detail.

#### 4.2.4 Latin America

4.2.4.1 At a regional level, there is a Trust Mark scheme that applies to all countries in Latin America called eConfianza. However, information about eConfianza is not readily available online and thus, it is difficult to understand how the scheme actually works. In particular, there does not seem to be an online portal for businesses to sign up to acquire the eConfianza Trust Mark, and eConfianza's website does not have a list of criteria that businesses have to meet in order to acquire the eConfianza Trust Mark. Instead, businesses have to contact the eCommerce Institute (which runs eConfianza) via email to inquire on such matters.

4.2.4.2 Several countries in Latin America also have their own national Trust Mark schemes, which are all run by private organisations. This includes Mexico, Brazil, Chile, Peru, and Guatemala.<sup>50</sup> While there have also been other e-commerce Trust Marks developed in Latin America, most of the Trust Marks were not successfully implemented or sustained.<sup>51</sup>

4.2.4.3 We set out our observations here on the schemes run by Mexico, Brazil, and Chile. The schemes in Peru and Guatemala will not be elaborated on given the limited information available online.

##### **Mexico: Asociación de Internet MX ("AIMX")**

4.2.4.4 AIMX's Trust Mark is a voluntary Trust Mark scheme that was launched in 2007 to promote consumer confidence in light of increasing ecommerce in Mexico.<sup>52</sup> The Trust Mark is overseen by AIMX, a private civil association with no government affiliations and is comprised of

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<sup>45</sup> See Certification Partners: <https://www.safe.shop/uk-en/partners/certification-partners> (last accessed 13/11/2021).

<sup>46</sup> See About Us: <https://www.ecommercefoundation.org/about-us-old> (last accessed 13/11/2021).

<sup>47</sup> Safe.Shop's consumer guarantees included the following: (a) the company exists; (b) you know what, when & how you buy; (c) what you buy is what you get; (d) prices are clear and complete; (e) right to return within 14 days; (f) your privacy is protected; (g) all reviews shown are real; (h) complaints handled fast and fairly. Source: <https://www.safe.shop/uk-en/consumers/global-code-of-conduct>.

<sup>48</sup> It was reported that some of the challenges faced by Safe.Shop included: (a) difficulty in combining the different interests of participating countries into one international company; and (b) lack of much-needed brand awareness. See 'TrustProfile acquires global quality mark Safe.Shop' (2021), Ecommerce News: <https://ecommercenews.eu/trustprofile-acquires-global-quality-mark-safe-shop/> (last accessed 13/11/2021).

<sup>49</sup> See Safe.Shop Stops: <https://www.safe.shop/uk-en/join-now> (last accessed 13/11/2021).

<sup>50</sup> See page 10 of 'The Use of Trust Seals in European and Latin American Commercial Transactions', Journal of Open Innovation: <https://www.mdpi.com/2199-8531/7/2/150/pdf> (last accessed 13/11/2021).

<sup>51</sup> Ibid.

<sup>52</sup> See ¿Qué Es El Sello?: <https://sellosdeconfianza.org.mx/index.php?op=que> (last accessed 13/11/2021).

stakeholders in the Internet Industry.<sup>53</sup> The AIMX operates two types of trust marks – the ecommerce Trust Mark<sup>54</sup> and personal data Trust Mark.<sup>55</sup>

4.2.4.5 In order to join the scheme, the applicant must first be a member of the AIMX by paying an annual membership fee<sup>56</sup> and agreeing to the AIMX's Code of Ethics.<sup>57</sup> Following that, the applicant must meet the criteria to obtain the Trust Mark it wants. As compared to the personal data Trust Mark, the ecommerce Trust Mark requires applicants to display more information on their website. This includes the applicant's contact details and address, information on payment, and links to consumer protection organisations.<sup>58</sup> The applicant will also have to provide various company documents to AIMX.

4.2.4.6 In terms of success, the AIMX Trust Mark is considered to be one of the more successful ones in the Latin America region because Mexico's regulations recognises the effectiveness of instruments derived from self-regulation.<sup>59</sup> AIMX is also a member of the World Trustmark Alliance (WTA), which recognizes 37 Trust Marks from 30 countries globally.<sup>60</sup>

#### **Brazil: Clique e-Valide**

4.2.4.7 Clique e-Valide is a voluntary Trust Mark scheme that is administered by Câmara Brasileira de Comércio Eletrônico (Brazilian Chamber of Electronic Commerce) ("**Camara-e.net**"). Camara-e.net is a private association that aims to promote digital businesses and comprises of members from various companies.<sup>61</sup>

4.2.4.8 In order to join the scheme, the business has to be a member of the e-MPE Movement created by Camara-e.net, which requires them to pay an annual fee of BRL 390,000 (USD 74,425).<sup>62</sup> Following that, the business can fill up a form to apply for the Trust Mark and their application will be analysed by Camara-e.net. The business will also have to accept the terms and conditions and Code of Ethics of the scheme.

#### **Chile: Confianza Ecommerce CCS**

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<sup>53</sup> See Preguntas frecuentes: <https://www.asociaciondeinternet.mx/quienes-somos/preguntas-frecuentes> (last accessed 13/11/2021).

<sup>54</sup> See Sello De Comercio Electrónico: [https://sellosdeconfianza.org.mx/index.php?op=beneficios\\_ecommerce](https://sellosdeconfianza.org.mx/index.php?op=beneficios_ecommerce) (last accessed 13/11/2021).

<sup>55</sup> See Sello De Datos Personales: <https://sellosdeconfianza.org.mx/index.php?op=beneficios> (last accessed 13/11/2021).

<sup>56</sup> The amount payable for the membership fee depends on the business' average annual domestic turnover. See ¿Cómo ser socio?: <https://www.asociaciondeinternet.mx/socios> (last accessed 13/11/2021).

<sup>57</sup> *Ibid.*

<sup>58</sup> See Sello De Comercio Electrónico: [https://sellosdeconfianza.org.mx/index.php?op=beneficios\\_ecommerce](https://sellosdeconfianza.org.mx/index.php?op=beneficios_ecommerce) (last accessed 13/11/2021) and <https://sellosdeconfianza.org.mx/index.php?op=beneficios> (last accessed 13/11/2021).

<sup>59</sup> See page 10 of 'The Use of Trust Seals in European and Latin American Commercial Transactions', Journal of Open Innovation: <https://www.mdpi.com/2199-8531/7/2/150/pdf> (last accessed 13/11/2021).

<sup>60</sup> *Ibid.*

<sup>61</sup> See Institucional / Sobre Nós: <https://camara-e.net/site/conteudo/125-sobre-nos.html> (last accessed 13/11/2021).

<sup>62</sup> See Associação: <https://e-mpe.com/site/produtos/1499-movimento-e-mpe-assinatura-anual.html> (last accessed 13/11/2021).

4.2.4.9 Confianza Ecommerce CCS's Trust Mark is a voluntary Trust Mark scheme that aims to develop good practices for ecommerce in Chile. The scheme is administered by the Electronic Commerce Committee ("**ECC**") of the Camara de Comercio de Santiago (Santiago Chamber of Commerce) ("**CCS**"). The CCS is a private non-profit organisation that aims to boost e-commerce in Chile, with a membership of more than 2,000 large, medium and small sized companies from various sectors.<sup>63</sup> The ECC itself is made of 550 companies that represents more than 690 ecommerce businesses.<sup>64</sup>

4.2.4.10 The Trust Mark signifies to consumers that the business will comply with the CCS' Code of Good Practices for Electronic Commerce. This means that the business will follow the principles of legality, informed consent, obligatory force of the contract, professionalism, and good faith when promoting and offering ecommerce services.<sup>65</sup>

4.2.4.11 In order to join the scheme, the business has to be a member of the CCS and its Electronic Commerce Committee. The business must also have been audited by the CCS to verify that the business complies with the Code of Good Practices for Electronic Commerce,

#### 4.2.5 Australia

4.2.5.1 Australia does not have any general or e-commerce-specific Trust Mark presently that is run by private or public actors. However, Australia provides for certification trade marks which indicate to consumers that a product or service meets a particular standard (e.g. that the product is of a particular quality, been manufactured in a particular location or by using a particular process, is made from particular materials or ingredients or is suited to a particular task). Approval from the Australian Competition & Consumer Commission ("**ACCC**") is required before certification trade marks can be registered under the Trade Marks Act 1995.

4.2.5.2 In addition, the Australian government has recently expressed an intention to introduce several new Trust Marks relating to cyber security, to increase transparency and assist consumer and business decision-making for products that are susceptible to cyber security issues.<sup>66</sup> This initiative is a part of the government's open consultation on options for regulatory reforms and voluntary incentives to strengthen the cyber security of Australia's digital economy.<sup>67</sup> The deadline for submissions was 27 August 2021 and the government is presently considering the submissions that were made.

4.2.5.3 Australia had also previously considered whether to implement a privacy Trust Mark in 2010. The Australian Law Reform Commission Report 108 titled 'Australian Privacy Law and Practice', which was drafted as a result of a 28-month inquiry into Australia's laws on privacy,<sup>68</sup> stated that an advantage of adopting such a privacy Trust Mark scheme is that it would allow regulators and law enforcement bodies to focus on more serious and harmful breaches of

<sup>63</sup> See Who We Are?: <https://www.ccs.cl/en-inicio/> (last accessed 13/11/2021).

<sup>64</sup> See About Us: <https://www.ecommerceccs.cl/quienes-somos/> (last accessed 13/11/2021).

<sup>65</sup> See Sello Confianza Ecommerce CCS (2018): <https://www.ecommerceccs.cl/sello-confianza-ecommerce-ccs/> (last accessed 13/11/2021).

<sup>66</sup> See "Strengthening Australia's cyber security regulations and incentives", Cyber, Digital and Technology Policy Division, Department of Home Affairs (Australia) (2021): <https://www.homeaffairs.gov.au/reports-and-pubs/files/strengthening-australia-cyber-security-regulations-discussion-paper.pdf> (last accessed 13/11/2021).

<sup>67</sup> Ibid.

<sup>68</sup> See ALRC Report 108: 'Australian Privacy Law and Practice', Australian Law Reform Commission, <https://www.alrc.gov.au/publication/for-your-information-australian-privacy-law-and-practice-alrc-report-108/> (last accessed 13/11/2021).

privacy by dealing with lower level breaches of privacy.<sup>69</sup> Notwithstanding, an Australian privacy Trust Mark has not been implemented to date.<sup>70</sup>

### 4.3 Key characteristics of Existing Schemes

4.3.1 Drawing from the existing schemes above, we have identified several key characteristics present in Trust Mark schemes. We set out more information about each characteristic below, with examples given from particular schemes.

#### 4.3.2 Key players in the Trust Mark scheme

4.3.2.1 The key players in a Trust Mark scheme are:

- (a) Trust Mark issuing body: This body is responsible for determining the operationalism of the Trust Mark scheme and the criteria for obtaining a Trust Mark. Examples include non-profit organisation such as Ecommerce Europe (EU) and the HKFEC (Hong Kong), for-profit companies such as TrustedSite, LLC, and government entities such as the Ministry of Commerce (Indonesia).
- (b) Trust Mark administrating body: This body is responsible for the practical accreditation and monitoring of the Trust Mark scheme and may or may not be the same as the Trust Mark issuing body (see paragraph 4.3.11 below). Examples include the Associated NAs of Ecommerce Europe, such as FEVAD (France) and e-market (Denmark).
- (c) E-shops and consumers: E-shops seeking to obtain the Trust Mark and consumers which take Trust Marks into consideration when making their e-commerce purchases are also key players as they drive the demand for and sustainability of Trust Mark schemes. The collective interests and concerns of e-shops and consumers can be represented by trade or consumer associations respectively. Examples include the ASEAN Business Advisory Council for traders and the European Consumer Centres Network ("**ECC-Net**") for consumers.

4.3.2.2 There is no prohibition against the Trust Mark issuing body and the Trust Mark administrator body being the same.

#### 4.3.3 Value of scheme: What benefits do the Trust Mark give to both e-shops and the consumer?

##### E-shops

4.3.3.1 The main value that Trust Marks provide to e-shops, and the value which is most advertised by Trust Mark issuing bodies to encourage participation in their Trust Mark scheme, is the increased consumer confidence that the Trust Mark provides to the business. Several Trust Mark issuing bodies claim that this increased consumer confidence leads to increased conversion rates:

- (a) FEVAD claims that a survey had shown that 54% of e-buyers consider a FEVAD

<sup>69</sup> Ibid., paragraph 31.60.

<sup>70</sup> Ibid.



membership to be a criterion for choosing which merchant site they purchase from; and

- (b) E-market claims that more than 78% of online shopping Danes know about e-market, and that almost 39% would opt out of transacting on a webshop that is not e-market certified (i.e. granted the e-market Trust Mark).
- (c) Anecdotal evidence from stakeholder interviews indicate that consumers find the presence of a Trust Mark to be a relevant factor in deciding whether to make an e-commerce transaction.<sup>71</sup>

4.3.3.2 These Trust Mark issuing bodies may actively implement certain consumer-facing measures to promote such an outcome. The most common methods include providing a public list of 'trusted' traders or online shops. Such a method is used by, amongst others, the EU Trust Mark scheme (EU), Gremial de Comercio Electrónico de Guatemala scheme (Guatemala), e-market (Denmark), Confianza Online (Spain) and FEVAD (France).

4.3.3.3 Some Trust Mark issuing bodies also provide value-added services, typically by providing accredited companies with additional marketing opportunities, advising on legal compliance matters, or providing mediation services (see paragraphs below regarding the value of Trust Mark schemes for consumers). For instance, Câmara Brasileira de Comércio Eletrônico (Brazil) includes its members in campaigns which attract more than three hundred thousand users in a year,<sup>72</sup> e-market (Denmark) provides each member with designated in-house lawyers for them to consult on legal matters, and Confianza Online (Spain) and FEVAD (France) both provide mediation services for resolving any complaints from buyers.

#### Consumers

4.3.3.4 The key benefit of Trust Mark schemes to consumers is that consumers can be assured of the Trust Mark bearer's compliance with the Trust Mark issuing body's criteria, which generally go towards verifying the security of the consumer transaction. Amongst others, compliance with Trust Mark scheme criteria usually means (see Section 4.3 below):

- (a) the e-shop's identity is verified and is ascertained to be providing accurate product descriptions (i.e. the consumer knows who he or she is transacting with and is getting what he/she paid for);
- (b) the e-shop is implementing the necessary security measures at each step of the order process (i.e. the consumer's data and payments are secured); and
- (c) disputes raised by consumers will be properly dealt with (i.e. the consumer knows the e-shop will take responsibility for any no-compliant conduct).

4.3.3.5 In particular, whereas e-shops are generally not under any legal obligation to comply with ADR processes (although e-shops and marketplaces in the EU are required to provide consumers with a link to an EU wide ODR platform established under EU regulations ("EU ODR

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<sup>71</sup> This was the feedback provided by consumer associations such as [redacted] and trust mark providers such as [redacted] alike. Copies of the responses to questionnaires and interview notes with stakeholders are set out in [redacted].

<sup>72</sup> See <https://canalenet.com.br/restrito/?referer=https://canalenet.com.br/mercado/> (last accessed 13/11/2021).

**Platform**”),<sup>73</sup> they may choose whether or not to participate in the ADR process), some Trust Mark schemes require as a condition for obtaining their Trust Mark that the e-shop uses and/or abide by the decisions of an ADR platform. For instance, Confianza Online’s Code of Ethics – the compliance of which is necessary for obtaining its Trust Mark, requires members to submit to Confianza Online’s ADR mechanism and agree to abide by and strictly and immediately comply with the content of any mediated agreements under this mechanism. If a mediated resolution is not achieved via this ADR mechanism, Confianza Online will further submit the dispute to either the National Consumer Arbitration Council or the Regional Consumer Arbitration Council, and the decisions of both have the same effect as a court decision.<sup>74</sup>

4.3.3.6 Some Trust Mark schemes, such as TrustedSite’s Shopper Identity Protection, even work by providing a buyer’s insurance. Under this specific Trust Mark scheme, consumers making purchases on the website of a Trust Mark bearing e-shop will receive a prompt to opt in for \$100,000 coverage in the event of identity theft within 90 days of making that purchase. This provides a direct financial incentive or safety net for consumers to transact with e-shops accredited under that Trust Mark scheme.

#### 4.3.4 Voluntary or mandatory

4.3.4.1 All existing e-commerce Trust Marks in ASEAN, the EU, Hong Kong and Latin America are voluntary. A voluntary Trust Mark scheme alleviates the burden of needing to comply and prevents e-shops from simply ticking off check boxes. A voluntary scheme, effectively managed, and with proper advocacy put out, will encourage e-shops to want to participate. When an e-shop voluntarily comes forth, the likelihood of compliance will be taken seriously.

4.3.4.2 Of note is the mandatory scheme in Indonesia, Government Regulation No.71 of 2019 on the Implementation of Electronic Systems and Transactions (“**GR 71**”). GR 71 applies to ESOs defined under GR 71 and requires all such ESOs to obtain a Certificate of Competence to certify that their electronic systems meet certain criteria. While GR 71 does apply to e-commerce actors that are deemed to conduct electronic transactions under the regulation, its main purpose is to ensure that ESOs operate their electronic systems reliably and safely. Hence, it is thus not an e-commerce Trust Mark as defined in section 2.1 of the paper.

4.3.4.3 The state of play remains such that all existing e-commerce Trust Mark schemes considered to be relevant (as defined in section 2.1 in this paper) are voluntary.

#### 4.3.5 Organisation(s) administering the Trust Mark: Government authority vs private sector organisation / for-profit vs non-profit

4.3.5.1 In ASEAN, e-commerce Trust Mark schemes are overseen by a mix of the private sector and public sector (i.e. government authorities). A majority of the private sector entities overseeing Trust Mark schemes are also non-profit organisations, with an exception being the Philippines. Specific details on the organisations administering Trust Mark schemes in ASEAN are set out in Table 1 below.

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<sup>73</sup> Article 5 read with Article 14 of Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013R0524> (last accessed 13/11/2021).

<sup>74</sup> See paragraph 2.3 of [https://ec.europa.eu/info/sites/default/files/national-consumer-organisations\\_es\\_listing\\_0.pdf](https://ec.europa.eu/info/sites/default/files/national-consumer-organisations_es_listing_0.pdf) (last accessed 13/11/2021).



**Table 1: Administration of E-commerce Trust Mark Schemes in ASEAN**

<b>Jurisdiction</b>	<b>Trust Mark administration by private or public sector</b>	<b>Body (or bodies, if there are multiple) responsible for administering the e-commerce Trust Mark and whether it is for or non-profit</b>
Lao PDR (upcoming)	Public	MOIC, MCT, BOL
Malaysia	Private	Ministry of Domestic Trade and Consumer Affairs and Ministry of Communication and Multimedia
Philippines	Private	Sure Seal, <sup>75</sup> for-profit organisation
Singapore	Private	CommerceNet Singapore (“ <b>CNSG</b> ”), <sup>76</sup> non-profit organisation  Consumers Association of Singapore (“ <b>CASE</b> ”), <sup>77</sup> non-profit organisation
Thailand	Public	Department of International Trade Promotion (“ <b>DITP</b> ”), Ministry of Commerce, <sup>78</sup> Royal Thai Government
Vietnam	Public	Vietnam E-commerce Development Center (“ <b>Ecom Viet</b> ”), <sup>79</sup> non-profit government agency under the Ministry of Industry and Trade

4.3.5.2 The landscapes in the EU, Hong Kong and Latin America are similar. In fact, all the e-commerce Trust Mark schemes administered in these regions are overseen by private, non-profit organisations. An exception would be the EU’s “EU Trust Mark” which is administered by the European Parliament and the Council of the EU which is administered by local authorities. However, the EU Trust Mark only applies to specified trust services. E-commerce Trust Mark accreditation therefore remains largely in the domain of the private-sector. Details are set out in Table 2 below.

**Table 2: Administration of E-commerce Trust Mark Schemes in EU, UK, Hong Kong and Latin America**

<b>Jurisdiction</b>	<b>Trust Mark administration by private or public sector</b>	<b>Body (or bodies, if there are multiple) responsible for administering the e-commerce Trust Mark and whether it is for or non-profit</b>
EU (as a region)	Private and public	E-commerce Europe, <sup>80</sup> non-profit organisation

<sup>75</sup> Administers the Sure Seal TrustMark.

<sup>76</sup> Administers the BusinessTrust and ConsumerTrust Trust Mark for CNSG.

<sup>77</sup> Administers CaseTrust, which focuses on retail businesses in specific sectors.

<sup>78</sup> Administers the Thailand TrustMark.

<sup>79</sup> Administers the SafeWeb TrustMark.

<sup>80</sup> Administers the Ecommerce Europe TrustMark.

		European Parliament and the Council of the EU <sup>81</sup>
France	Private	La Fédération du e-commerce et de la vente à distance (" <b>FEVAD</b> "), <sup>82</sup> non-profit organisation
Spain	Private	Spanish Association of the Digital Economy (" <b>Adigital</b> "), <sup>83</sup> non-profit organisation  Association for the Self-Regulation of Commercial Communications (" <b>Autocontrol</b> "), <sup>84</sup> non-profit organisation
Denmark	Private	E-market, <sup>85</sup> non-profit organisation
Hong Kong	Private	Hong Kong Federation of E-Commerce (" <b>HKFEC</b> "), <sup>86</sup> non-profit organisation
Latin America (as a region)	Private	E-commerce Institute <sup>87</sup> , non-profit organisation
Brazil	Private	Câmara Brasileira de Comércio Eletrônico (" <b>Brazilian Chamber of Electronic Commerce</b> "), <sup>88</sup> non-profit organisation
Chile	Private	Confianza Ecommerce CCS, <sup>89</sup> non-profit organisation
Mexico	Private	Asociación de Internet MX (" <b>AIMX</b> "), <sup>90</sup> non-profit organisation
Peru	Private	Camara Peruana de Comercio Electronico (" <b>CAPECE</b> "), <sup>91</sup> non-profit organisation

#### 4.3.6 Implementation: For regional Trust Mark schemes, is it implemented by a supra-national body or individually by member states?

4.3.6.1 Our research reflects that there are two prominent regional Trust Mark schemes: (1) the Ecommerce Europe Trustmark in the EU; and (2) eConfianza in Latin America.

4.3.6.2 The Ecommerce Europe Trustmark in the EU is unique in that it is not implemented and overseen solely by a supra-national body or individually by member states. Rather, it is operated as a dual-layered scheme, which involves certification from both Ecommerce Europe,

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<sup>81</sup> Administers "EU trust mark".

<sup>82</sup> Administers the Ecommerce FEVAD TrustMark.

<sup>83</sup> Administers the Confianza Online TrustMark.

<sup>84</sup> Ibid.

<sup>85</sup> Administers the e-market TrustMark.

<sup>86</sup> Administers the Hong Kong TrustMark.

<sup>87</sup> Administers the eConfianza TrustMark.

<sup>88</sup> Administers the Câmara Brasileira de Comércio Eletrônico TrustMark Scheme.

<sup>89</sup> Administers the Confianza Ecommerce CCS Trust Mark scheme.

<sup>90</sup> Administers the Asociación de Internet MX Trust Mark scheme.

<sup>91</sup> Administers the CAPECE Trust Mark scheme.

a non-profit organisation which operates across national borders in Europe, and by national associations which are members of the Ecommerce Europe network (“**Associated NAs**”).

4.3.6.3 In comparison, eConfianza in Latin America is implemented by the eCommerce Institute, which is a regional non-profit organisation in Latin America that aims to develop and support the development of the digital economy in Latin America. The eCommerce Institute is advised by international experts in the field and its network includes national e-commerce associations from various Latin American countries.

4.3.6.4 Other Trade Marks schemes that we have observed are generally run at a national level or at a sectoral level.

#### 4.3.7 **Formal approval by an accreditation scheme: Is there any auditing or certification by external parties?**

4.3.7.1 In most jurisdictions, there is no requirement for the Trust Mark scheme to be audited or certified by external parties. This is mainly due to the concern that such checks by external parties will be overly hinder participation of e-shops in the Trust Mark Schemes, particularly, MSMEs who may not be able or willing to bear such additional costs. Thus, the Trust Mark schemes instead rely on the organisation that administers the scheme to check potential applicants’ credentials and qualifications as a more cost-efficient method of screening. In such instances, the scheme providers will verify whether the business has met the criteria to join the Trust Mark scheme. This may be done by requiring businesses to fill up an online form to provide such information. Some examples include the application form by CaseTrust in Singapore<sup>92</sup> and by AIMX’s scheme in Mexico.<sup>93</sup> The scheme provider may also conduct its due diligence on the business and request for documents from them, such as legal documents, business records, credentials, and insurance documents. The scheme provider will nevertheless charge a nominal sum for the issuance of the Trust Mark.

4.3.7.2 In contrast, in certain jurisdictions, Trust Mark schemes are verified by external parties. For example, in the EU, although the national Trust Mark schemes do not have to be audited or certified by external parties, the regional Ecommerce Europe Trustmark run by Ecommerce Europe requires certification from an Associated NA for compliance with the Associated NA’s Trust Mark scheme, which operates on a national level. After such certification is obtained, the NA will then certify whether the e-shop is in compliance with the Ecommerce Europe Trustmark scheme.

4.3.7.3 Further, if an e-commerce business in the EU that qualifies as a trust service provider<sup>94</sup> wishes to obtain the EU Trust Mark<sup>95</sup>, the trust service provider must also submit to its supervisory body a conformity assessment report from a conformity assessment body which is accredited by a national accreditation body of the member state and is deemed competent to carry out assessment of the qualified trust service provider and trust service under Regulation (EC) No 765/2008.

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<sup>92</sup> See application form here: <https://app.case.org.sg/casetrust.plx?rm=apply> (last accessed 13/11/2021). E-shops which apply for CaseTrust accreditation will be accessed in accordance with the CaseTrust criteria checklist: see <https://www.casetrust.org.sg/Download> (last accessed 27/12/2021) and **Annex B**.

<sup>93</sup> See application form here: [https://sellosdeconfianza.org.mx/?op=contratar\\_comercio](https://sellosdeconfianza.org.mx/?op=contratar_comercio) (last accessed 13/11/2021).

<sup>94</sup> ‘Trust services’ is defined in the eIDAS Regulation.

<sup>95</sup> Note that the EU Trust Mark does not apply to all e-commerce activities and only applies to ‘trust services’.

4.3.7.4 Similarly, in Indonesia, in order to obtain a Certificate of Competence<sup>96</sup> from the government's MOCI, the business has to undergo an assessment or audit by an authorised agency, such as a registered Indonesian reliability certification institution.

4.3.7.5 A third approach adopted by some Trust Mark providers is a mixed approach, where in-house accreditation is conducted for criteria that can be easily verified (e.g. transparency in information, compliance with legal obligations), but external third-party accreditation is required or recommended for more complex or technical compliance criteria that Trust Mark providers would be unable to comprehensively verify themselves. For instance, TrustedSite LLC (which is the successor to the McAfee SECURE™ certification), requires verification of certification from a third-party accreditator for data protection or cybersecurity related matters. To obtain TrustedSite's Data Protection Trust Mark, the e-shop will have to obtain a Secure Sockets Layer (SSL) certificate, which is issued by a third-party certification authority. [Redacted] similarly checks for e-shops' SSL certificates. Another example is [Redacted], which encourages its e-shops to become members of Trust Guard (a third-party cyber-security service provider and certifier) and provides a relevant label that the e-shop is certified by Trust Guard.<sup>97</sup>

#### 4.3.8 **Criteria for obtaining Trust Mark: What criteria must a business meet to gain the Trust Mark?**

4.3.8.1 To attain a Trust Mark, a business must meet certain criteria as determined by the implementing organisation. Across all jurisdictions, there are several common criteria that all Trust Mark schemes tend to include.

4.3.8.2 First, scheme providers may require for the businesses to be legally compliant with existing laws, including any applicable sectoral regulations. For example, Denmark's e-market Trust Mark requires its businesses to comply with regulatory requirements from supervisory authorities, such as the Consumer Complaints Board and Ministry of Business and Growth,<sup>98</sup> while Vietnam's SafeWeb requires businesses to never violate relevant laws and regulations as a part of the standards set by Ecom Viet.<sup>99</sup>

4.3.8.3 Second, some scheme providers may also specify that businesses should comply with their own national consumer protection legislation. A few examples are as follows:

- (a) EU's Ecommerce Europe Trustmark requires businesses to comply with privacy and data protection legislation, as part of its EECOC which scheme members are bound by.<sup>100</sup>

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<sup>96</sup> A Certificate of Competence is awarded Government Regulation No.71 of 2019 on the Implementation of Electronic Systems and Transactions ("GR 71").

<sup>97</sup> Based on stakeholder interview with [redacted].

<sup>98</sup> Guidelines, E-market Trust Mark: <https://www.emarket.dk/certificeringsproces#indhold> (last accessed 13/11/2021).

<sup>99</sup> Principle 1(3) of the Criteria for Evaluating Websites Providing E-Commerce Services, SafeWeb: <http://www.safeweb.vn/tieu-chi-tham-dinh-website-cung-ung-dich-vu-tmdt/n10.html> (last accessed 13/11/2021).

<sup>100</sup> Code of Conduct, Ecommerce Europe Trust Mark: <https://ecommercetrustmark.eu/the-code-of-conduct/> (last accessed 13/11/2021). See <https://ecommercetrustmark.eu/for-merchants/> (last accessed 13/11/2021) for criteria to join Trust Mark scheme.

- (b) The Hong Kong Trust Mark scheme run by HKFEC also requires businesses to protect their customers' personal data according to the Personal Data (Privacy) Ordinance, which is the main legislation in Hong Kong for protection of personal data.<sup>101</sup>
- (c) Spain's Confianza Online trust mark requires businesses to comply with existing legislation when contracting for goods and services through electronic means and abide by personal data protection regulations.<sup>102</sup>
- (d) Chile's Confianza Ecommerce CCS Trust Mark requires businesses to comply with data processing laws.<sup>103</sup>

4.3.8.4 Third, as mentioned above at paragraph 4.3.7.1, scheme providers may also require certain documents from the business to conduct its due diligence. This auditing process is be conducted by either the scheme provider itself or an external party, as described above at Section 4.3.5.

4.3.8.5 Fourth, given that the purpose of Trust Mark schemes is to improve consumer confidence, scheme providers will also stipulate stringent consumer-friendly Trust Mark criteria which e-shops have to abide by in order to be able to display the Trust Mark on their websites.<sup>104</sup> The criteria can be categorised into two categories: (1) requirements on how goods and services should be listed; and (2) requirements on how e-shops should treat customers.

4.3.8.6 The criteria on how goods and services should be listed includes:

- (a) Detailed, complete and accurate descriptions of goods and services;
- (b) Authenticity of goods;
- (c) Origin of goods;
- (d) Clear contractual terms, in particular relating to shipping or delivery conditions and cancellation, return or exchange conditions; and
- (e) Clear and transparent pricing, including stating the applicable costs and taxes in an upfront manner, as well as the applicable discount codes (if any) and all available payment methods.

4.3.8.7 In addition to the above criteria, some schemes, like the EU's Ecommerce Europe Trustmark and Mexico's scheme run by AIMX, may place a stronger emphasis on consumer protection and require e-shops to provide electronic links to avenues where consumers can raise any

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<sup>101</sup> Code of Practice, HKFEC Trust Mark: <https://hkfec.org/hk-trust-mark/code-of-practice/> (last accessed 13/11/2021).

<sup>102</sup> Articles 14 and 23, Confianza Online Ethical Code. Accessible at [tradingstandards.uk/commercial-services/consumer-codes-approval-scheme](https://tradingstandards.uk/commercial-services/consumer-codes-approval-scheme).

<sup>103</sup> Article 18(2) of the Code of Good Practices for Electronic Commerce, Confianza Ecommerce CCS: <https://www.ecommerceccs.cl/wp-content/uploads/2018/02/CBBPP-DefinitivoVF.pdf> (last accessed 13/11/2021).

<sup>104</sup> For example, the following trademark schemes require a business to comply with Trust Mark criteria that is contained in a Code of Conduct, which is sometimes also referred to as a Code of Ethics or Code of Practice: Clique e-Valide (Brazil), Confianza Ecommerce CCS (Chile), Ecommerce Europe Trustmark (EU), Camara Peruana de Comercio Electronico (Peru), TrustSg (Singapore), and Confianza Online (Spain).

issues that they may have. For the Ecommerce Europe Trustmark, the link will direct consumers to a designated online dispute resolution platform which is developed and operated by the European Commission. For Mexico, the links will direct the consumer to the Office of the Federal Prosecutor for the Consumer (“**PROFECO**”) and the National Committee for the Defense of Users of Financial Institutions (“**CONDUSEF**”), which both enforce consumer rights.

4.3.8.8 The criteria on how e-shops should treat customer involves good business practices that e-shops should adopt. This includes:

- (a) Having appropriate customer feedback and complaints procedures; and
- (b) Providing relevant information on ADR processes.

4.3.8.9 Fifth, in line with consumer protection, schemes will also tend to have a criterion that requires e-shops to have robust personal data protection policies and to get the customer’s active consent to the policy. The personal data policies will typically either be aligned with the local law, such as the GDPR for the EU and the PDPA for Singapore, or instead, align with international standards, like how the Philippines’ Sure Seal Trust Mark requires for personal data protection policies of businesses to be in accordance with the International APEC Data Privacy Standards.

4.3.8.10 Sixth, schemes will also have cybersecurity requirements for the security of the website itself, to ensure that any personal and financial information that is provided on the website is appropriately protected. An example of this is to require that the website has a valid SSL certificate installed site-wide so that the website is encrypted.

4.3.8.11 In addition to the commonly found criteria above, Trust Mark providers have the autonomy to impose other requirements. For example, some schemes may require that businesses should have a minimum period of operation before obtaining the Trust Mark. Some scheme could require the business to be a member of their organisation and require them to pay a membership fee (e.g. Brazil’s Clique e-Valide, Mexico’s AIMX).

#### 4.3.9 **Funding: Private vs Public funding**

4.3.9.1 An important consideration when setting up a Trust Mark scheme is the source of funding. Trust Mark schemes can either be publicly or privately funded. In this Report, we define public funding as funding that comes from the state or another publicly funded agency. Any other sources of funding, including membership fees or accreditation fees paid by (non-publicly funded) members of the Trust Mark organisation, or donations from the general public, are considered private funding for the purposes of this Report. This definition allows for a practical distinction between Trust Mark schemes that require or receive official support from the state and Trust Mark schemes that are supported entirely by private individuals or organisations.

4.3.9.2 Based on our desktop research of existing Trust Mark schemes, these schemes can be entirely privately funded, both privately funded and publicly funded, or entirely publicly funded. While there is significant variance in how Trust Mark schemes are funded, the source of funding is to a certain degree tied to the identity of the body issuing the Trust Mark. Trust Mark schemes issued or overseen by a public authority are usually entirely publicly funded, and Trust Mark issued by for-profit companies or non-profit organisations are usually entirely privately funded. Trust Mark schemes with a mix of public and private funding are usually schemes that are conceptualised or encouraged by public authorities but run by non-profit organisations.

4.3.9.3 To illustrate the point above, a summary of the funding sources of each reviewed e-commerce Trust Mark scheme (sans sectoral Trust Mark schemes) in ASEAN and the EU, set against the identity of the body implementing the Trust Mark scheme, is set out in Table 3 below. Nevertheless, they are useful for demonstrating a potential correlation between the identity of the body implementing the Trust Mark scheme and the source of funding.

**Table 3: Funding Sources for E-commerce Trust Mark Schemes**

S/N	Funding Source	Trust Mark Scheme (Jurisdiction(s))	Body issuing Trust Mark
1.	Private	Sure Seal (Philippines)	Qartas Corp.
2.			(private for-profit company)
3.		Ecommerce Europe Trustmark (Europe)	Ecommerce Europe (non-profit, private industry association comprised of non-profit industry associations and for-profit companies)
4.		La Fédération du e-commerce et de la vente à distance (“FEVAD”) Trust Mark (France)	FEVAD (non-profit association comprised of e-commerce and distance selling players and business that provide services to e-commerce companies)
5.	Mixed private and public	Confianza Online Trust Mark (Spain)	Spanish Association of the Digital Economy (i.e. “Adigital”); and Association for the Self-Regulation of Commercial Communications (i.e. <b>Autocontrol</b> )  (non-profit associations)  Note: Confianza Online receives various endorsements from Spanish public authorities. For instance, its Code of Ethics was registered as a Type Code by the Spanish Data Protection Agency (“AEPD”). <sup>105</sup>  It was also reported that the Spanish Ministry of Industry, Trade and Tourism provided funding as an official promoter of the Confianza Online trust mark. <sup>106</sup> That said, there is currently no indication

<sup>105</sup> See Consumption Council: <https://www.comunidad.madrid/servicios/consumo/consejo-consumo> (last accessed 13/11/2021).

<sup>106</sup> See A Pan-European Trustmark for E-Commerce: Possibilities and Opportunities (2012) (“Pan-EU Study”): [https://www.europarl.europa.eu/RegData/etudes/etudes/join/2012/492433/IPOL-IMCO\\_ET\(2012\)492433\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/etudes/join/2012/492433/IPOL-IMCO_ET(2012)492433_EN.pdf) (last accessed 13/11/2021).



			that the Spanish Ministry is still an official promoter of the trust mark scheme.
6.		E-market Trust Mark (Denmark)	E-market  (non-profit organisation co-founded by non-government associations)  Note: it has been reported that e-market was initially set up by the Danish government <sup>107</sup> and that e-market was supported by public funding in the early stages. <sup>108</sup>
7.	Public	Malaysia Trustmark for Private Sector	Ministry of Domestic Trade and Consumer Affairs
8.			Ministry of Communication and Multimedia
9.		Certificate of Competence under Government Regulation No.71 of 2019 on the Implementation of Electronic Systems and Transactions ("GR 71") (Indonesia)	Minister of Communications and Informatics
10.		Thailand Trust Mark (Thailand)	Ministry of Commerce - Department of International trade Promotion
11.		SafeWeb (Vietnam)	Ministry of Industry and Trade - Vietnam e-Commerce and Digital Economy Agency (E-commerce development center (Ecomviet))

#### Private funding

4.3.9.4 The two key sources of private funding for Trust Mark schemes are:

- (a) **Membership fees:** For instance, the e-commerce Trust Mark schemes run by FEVAD (France) and E-market (Denmark) are funded by membership fees. Thus, e-shops that wish to obtain a Trust Mark with the Trust Mark schemes have to become a member

<sup>107</sup> See EU online Trustmarks Building Digital Confidence in Europe (2012), paragraph 3.1.2.3: [https://www.europarl.europa.eu/cmsdata/59814/att\\_20130416ATT64613-6395490763952948749.pdf](https://www.europarl.europa.eu/cmsdata/59814/att_20130416ATT64613-6395490763952948749.pdf) (last accessed 13/11/2021).

<sup>108</sup> See Pan-EU Study at paragraph 3.4.2.



with the the Trust Mark issuing organisation.<sup>109</sup>

- (b) **Accreditation fees:** For instance, the e-commerce Trust Mark schemes run by the Hong Kong Federation of E-commerce (“HKFEC”) (Hong Kong, Macau and Mainland China) and Asociación de Internet MX (Mexico) charge an ‘annual’ fee or ‘licensing’ fee from applicants for their Trust Mark.<sup>110</sup> For accreditation fees, e-shops do not have to be a member of the Trust Mark issuing organisation to obtain the Trust mark. There are also some organisations that charge both a membership fee and an accreditation fee, such as Confianza Online (Spain).

4.3.9.5 E-shops are typically granted the right to display the Trust Mark for a period of one year upon payment of membership or accreditation fees to the Trust Mark issuing organisation. Where the right to display the Trust Mark is tied to membership, this duration may be cut short of the membership is terminated for any reason (e.g. failure to pay monthly fees or breach of membership conditions).

#### Public funding

4.3.9.6 Trust Mark schemes are only entirely publicly funded when they are administered by a public authority.

#### Mixed public and private funding

4.3.9.7 Some Trust Mark schemes receive both private and public funding. Such a mixed funding mechanism forms the minority of the reviewed Trust Mark schemes. Examples of mixed funding mechanisms include:

- (a) **Public funding as seed funding or ad-hoc grants:** For instance, it has been reported that e-market was supported by public funding in the early stages.<sup>111</sup> Once the Trust Mark scheme takes off, it will be operationally funded by private funding sources such as membership fees or accreditation fees.
- (b) **Partial public funding throughout the lifetime of the Trust Mark scheme:** Such a funding mechanism has been used in Trust Mark schemes where a public authority is a member, or is involved in the management, of the body issuing the Trust Mark.

<sup>109</sup> See Le logo « Charte Qualité » de la FEVAD (2018): [https://www.fevad.com/wp-content/uploads/2018/03/Nouveau\\_logo\\_charte\\_qualite\\_V031117-1.pdf](https://www.fevad.com/wp-content/uploads/2018/03/Nouveau_logo_charte_qualite_V031117-1.pdf) (last accessed 13/11/2021) under the heading ‘Qui peut utiliser le logo?’ for the requirement to be a B2C FEVAD member in order to obtain the FEVAD Trust Mark. Also see Certificeringsproces: <https://www.emarket.dk/certificeringsproces> (last accessed 13/11/2021) under the heading ‘Medlemsbetingelser’ for the suggestion that applicants for the e-market Trust Mark must be a member of the e-market certification scheme and abide by membership conditions.

<sup>110</sup> See HKFEC’s registration form which specifies the annual fee for their Trust Mark at <https://hkfec.org/hk-trust-mark/how-to-apply/> (last accessed 13/11/2021). Also see Asociación de Internet MX’s explanation of their licensing process for the Trust Mark at <https://sellosdeconfianza.org.mx/?op=faq> (last accessed 13/11/2021) (in response to the FAQ ‘¿Es lo mismo tener el Sello de Confianza Asociación de Internet MX® que ser socio de la Asociación de Internet MX?’) and at [https://sellosdeconfianza.org.mx/?op=beneficios\\_ecommerce](https://sellosdeconfianza.org.mx/?op=beneficios_ecommerce) (last accessed 13/11/2021) for the requirement for proof of payment when applying for the Trust Mark.

<sup>111</sup> See paragraph 3.4.2 of [https://www.europarl.europa.eu/RegData/etudes/etudes/join/2012/492433/IPOL-IMCO\\_ET\(2012\)492433\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/etudes/join/2012/492433/IPOL-IMCO_ET(2012)492433_EN.pdf)

#### 4.3.10 **Authority: Is the Trust Mark established by any law or regulation?**

4.3.10.1 Most of the Trust Mark schemes within our scope of review are not established by any law or regulation, but rather require e-shops to abide by a self-developed voluntary list of Trust Mark criteria, which typically makes reference to a mix of industry standards and legal requirements.

4.3.10.2 The minority of Trust Mark schemes which are established by law or regulation, namely the Certificate of Competence (Indonesia), E-Commerce Trust Mark Certificate (Cambodia) and the EU Trust Mark (Europe, sectoral Trust Mark), are schemes implemented or overseen by public authorities.

#### 4.3.11 **Monitoring body: Who is responsible for monitoring compliance with the Trust Mark scheme?**

4.3.11.1 The monitoring mechanism adopted by Trust Mark schemes can be grouped into two categories: the first is where the Trust Mark issuing body is itself responsible for monitoring compliance with its scheme, and the other where the Trust Mark issuing body delegates or contracts out the responsibility of monitoring compliance to third-parties. There is significant variance across the Trust Mark schemes in this regard, and there appears to be no single determining factor. However, it may be gleaned that certain types of Trust Mark schemes are more likely to adopt one monitoring mechanism over the other.

##### Direct monitoring by Trust Mark issuing body

4.3.11.2 This monitoring mechanism is most applicable to Trust Mark schemes which charge relatively significant membership fees or accreditation fees (as opposed to, for instance, mere administrative fees) for their Trust Marks. In such cases, the Trust Mark issuing body will usually have in-house capabilities for monitoring compliance as the accreditation service is, or is part of, the Trust Mark scheme's value offering.

4.3.11.3 For instance, e-market runs the dominant e-commerce Trust Mark scheme in Denmark, and e-shops have to become a member of the e-market certification scheme to obtain the right to display the e-market Trust Mark on the member's website and the right for the member's business to be listed on the e-market directory. Both the initial certification for compliance with e-market's criteria for obtaining the Trust Mark and the annual reviews for such compliance are conducted by e-market's in-house lawyers.<sup>112</sup> Indeed, the fact that e-market's in-house lawyers provide annual service checks and ongoing inspections is advertised by e-market as a membership benefit.<sup>113</sup> Several other Trust Mark schemes, like [redacted] and [redacted], also rely on consumer complaints to monitor businesses' compliance with the scheme.

##### Delegated monitoring mechanisms

4.3.11.4 In contrast to the direct monitoring mechanism, some Trust Mark issuing bodies simply set the criteria for obtaining the Trust Mark and delegate the responsibility for certifying compliance with that criteria to third parties. Our review suggests that this type of monitoring mechanism is most commonly associated with regional or global Trust Mark schemes involving a network of national Trust Mark associations.

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<sup>112</sup> See Certificeringsproces: <https://www.emarket.dk/certificeringsproces> (last accessed 13/11/2021).

<sup>113</sup> See Derfor e-mærket: <https://www.emarket.dk/derfor-emarket> (last accessed 13/11/2021).

4.3.11.5 An example of such a regional Trust Mark scheme is the Ecommerce Europe Trust Mark scheme which is targeted at European businesses. It operates as a dual-layered scheme, where e-shops wishing to obtain the Ecommerce Europe Trust Mark must first obtain the Trust Mark issued by a national Trust Mark association within Ecommerce Europe's network ("**Associated NAs**"). Each Associated NA is responsible for and has the power to grant an e-shop certified with their Trust Mark the Ecommerce Europe Trust Mark, provided that the e-shop also complies with Ecommerce Europe's Trust Mark criteria.

4.3.11.6 The EU Trust Mark, which is implemented by the European Commission, also relies on individual member states to designate supervisory bodies to perform supervisory tasks and oversee the granting of the EU Trust Marks to trust service providers in the member state's jurisdiction.

4.3.11.7 Such delegation may make practical sense as a single regional Trust Mark organisation may not necessarily have the resources to establish local expertise in all the jurisdictions within that region.

#### 4.3.12 Consequence of non-compliance with Trust Mark criteria

4.3.12.1 Where e-shops are found to be non-compliant with the Trust Mark criteria (after being previously awarded the Trust Mark), the Trust Mark scheme may, for instance, prevent the e-shops from either temporarily or permanently using the Trust Mark or require the e-shop to pay a financial penalty. Examples of specific consequences that are imposed by the reviewed Trust Mark schemes include:

**Table 4: Consequences for Non-Compliance with Trust Mark criteria**

S/N	Consequence for non-compliance with Trust Mark criteria	Examples of Trust Mark schemes imposing such consequence
1.	Revocation of right to display Trust Mark	All Trust Mark schemes
2.	Warning	<ul style="list-style-type: none"> <li>• Certificate of Competence (Indonesia)</li> <li>• FEVAD (France)</li> <li>• Confianza Online (Spain)</li> </ul>
3.	Suspension of right to use Trust Mark for specified duration	<ul style="list-style-type: none"> <li>• Confianza Online (Spain)</li> </ul>
4.	Suspension of right to be member of Trust Mark issuing body for specified duration	<ul style="list-style-type: none"> <li>• Confianza Online (Spain)</li> </ul>
5.	Imposition of financial penalties	<ul style="list-style-type: none"> <li>• Certificate of Competence (Indonesia)</li> <li>• FEVAD (France)</li> </ul>
6.	Inclusion of e-shop on public blacklist (for misuse of Trust Mark)	<ul style="list-style-type: none"> <li>• Ecommerce Europe (EU)</li> <li>• EHI Retail Institute (Germany)</li> </ul>

#### 4.4 Essential Must-Have Characteristics

4.4.1.1 Based on our review of existing Trust Mark systems, in particular the more recognisable Trust Mark schemes with a bigger network of accredited e-shops, Trust Mark schemes typically display the following essential characteristics:

- (a) Reliable source of funding;
- (b) Clear, achievable and publicly accessible set of criteria for obtaining the Trust Mark;
- (c) Competent organisation that verifies and monitors compliance with the Trust Mark criteria; and
- (d) Sanctions for non-compliance with the Trust Mark criteria.

4.4.1.2 The presence of the above characteristics aid in ensuring the smooth operation of a Trust Mark scheme and may increase the possibility of a Trust Mark scheme becoming more established in the region that it is operating in. This is particularly important as the utility of a Trust Mark largely depends on whether consumers recognise the brand and would refer to it when making their consumption decisions.<sup>114</sup> A Trust Mark scheme gaining such brand recognition would also further incentivise more businesses to apply for the scheme.

#### **4.4.1 Reliable source of funding**

4.4.1.1 A reliable source of funding is a crucial tenet of a Trust Mark scheme. In the first instance, a start-up fund is required to cover the fixed costs of setting up a Trust Mark scheme. Such fixed costs may include, but are not limited to, the costs associated with designing the Trust Mark criteria and the costs for setting up the official website for the Trust Mark. Apart from a start-up fund, a consistent source of funding is required for the lifetime of the Trust Mark scheme to cover the variable operational costs. Such variable costs may include, but are not limited to, manpower costs for the accreditation process, administrative costs for running the website and updated trusted lists, and costs of providing ADR services to accredited e-shops.

4.4.1.2 We note that a significant amount of marketing funds may also be required to create a truly successful Trust Mark scheme. As previously noted at section 3.3.3 of this Report, for there to be sufficient take-up of the Trust Mark scheme, consumers and e-shops alike must be aware of, amongst others, the credibility of the scheme and the value of the scheme. Such an observation has been corroborated by our interviews with certain consumer associations<sup>115</sup> There are significant network effects at play in a Trust Mark scheme – e-shops may only be interested in getting accredited when enough consumers are aware of what the Trust Mark represents and that there is integrity behind the accreditation process. Marketing funds will be required, at the minimum in the start-up phase, to achieve raise such awareness among consumers. If ASEAN proceeds to implement the Scheme, it would be important to determine the source of funding for the marketing and publicity plans and it is proposed that the funding be provided at the regional level.

#### **4.4.2 Clear and publicly accessible set of criteria for obtaining the Trust Mark**

4.4.2.1 A clear set of criteria for obtaining the Trust Mark is necessary to encourage onboarding of e-shops to the scheme as e-shops must be able to assess:

- (a) If they are likely to be able to comply with the criteria; and

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<sup>114</sup> This has been observed from our stakeholder interview with Trust Mark provider [redacted] and the response from [redacted] which runs [redacted].

<sup>115</sup> This was observed from our stakeholder interview with [redacted].

(b) If not, the steps that are required for them to comply with the criteria in order for them to be interested in obtaining accreditation.

4.4.2.2 Along the same vein, given that the ASEC's focus is to promote e-commerce amongst MSMEs, the Trust Mark criteria, the criteria must be pitched at a level stringent enough to invoke confidence in consumers but yet should not be to the extent that compliance is prohibitive or prohibitively costly for MSMEs. Some proponents have considered having tiered Trust Mark structures. However, our recommendation is, having gathered stakeholder feedback, that a single structure should be introduced for consistency and to make it easy to understand.

4.4.2.3 Due to the importance of network effects as set out in paragraph 4.4.1.2. above, the Trust Mark criteria should be made public so consumers can understand what the Trust Mark represents and to determine if it sufficiently alleviates their concerns in transacting with the Trust Mark bearing e-shop.

#### **4.4.3 Competent organisation that verifies and monitors compliance with the Trust Mark criteria**

4.4.3.1 To ensure integrity and public confidence in the Trust Mark scheme, the National Body in charge of verifying and monitoring compliance with the Trust Mark criteria must have the necessary expertise for doing so. For instance, where compliance with national laws is a requirement, the monitoring body should have relevant knowledge of such national laws or delegate the verification and monitoring of this component of the criteria to a competent body. As it is recommended that the National Body be in charge of receiving consumer complaints relating to e-shops accredited under the Scheme from the ASEAN ODR Platform, it would be ideal if the National Body is the consumer protection authority or association that is part of the ASEAN ODR network. There is no specific requirement for the National Body to be a ministry, government agency or an appointed third-party, for instance, as long as there is an appropriate compliance process along the chain of authority.

4.4.3.2 Express recognition by public authorities and/or a proven track record are ideal for demonstrating such competence to e-shops and consumers.

#### **4.4.4 Sanctions for non-compliance with the Trust Mark criteria**

4.4.4.1 Again, to ensure integrity and public confidence in the Trust Mark scheme, non-compliance with the Trust Mark criteria must be sanctioned to avoid any misuse of the Trust Mark.

4.4.4.2 At the minimum, unless accredited by the monitoring body, no business must be allowed to carry the Trust Mark, and potentially suspension or debarment from using the Trust Mark criteria. To the extent that the Trust Mark will be established as a relevant or important factor in consumers' purchasing decisions, suspension or debarment may be highly effective in ensuring compliance. Practically, this requires regular market monitoring by the monitoring body, and/or a public platform for receiving information on potential misuse of the Trust Mark. Those which misused the Trust Mark may be named and shamed on a public platform (e.g. by publishing a blacklist) to deter future misuse of the Trust Mark. In some jurisdictions, such misuse of Trust Mark may also be punishable under consumer protection laws.<sup>116</sup>

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<sup>116</sup> For instance, falsely or inaccurately representing that a product or service is accredited in some form when it is not is prohibited under the Consumer Protection (Fair Trading) Act (Cap. 52A) in Singapore.

- 4.4.4.3 More stringent measures include financial penalties for non-compliance with the Trust Mark criteria. In the context of the Scheme and to avoid the need for amending regulations to give National Bodies the power to collect fines, this may be done by way of a contract.

FINAL

## 5. Section E – Recommendations for ASEAN Trust Mark

5.1 Based on our review of the state of play of existing e-commerce Trust Mark schemes in ASEAN and the feedback provided in our stakeholder consultation, we set out in the following paragraphs our recommendations on the operationalisation of the ASEAN e-commerce Trust Mark scheme. We also discuss the pros and cons of our recommendations and other considered options.

### 5.2 The ASEAN Trust Mark Scheme must cater to MSMEs

5.2.1. The key rationale for wanting to introduce a Trust Mark scheme for e-commerce is to enhance protection for the consumer in his/her purchases vis-à-vis potentially errant retailers. Whilst this rationale cuts across both the brick-and-mortar retail shops as well as e-commerce e-shops, it is more pertinent with e-commerce as there is no physical interaction with e-shops retailers – this makes it harder for consumers to check and verify the products or pursue redress with the retailer.

5.2.2. Where the e-shop is a large multi-national corporation or renown brand, they would typically have systems and processes in place to not only enhance the customer experience but also to protect the consumer against defective goods for example. They run the risk of reputational damage if the consumer is not well served.

5.2.3. The same positioning is not available insofar as the MSMEs, and in particular, the micro and smaller e-shops, are concerned. Hence, the few black sheep recalcitrant players could tarnish the image of the majority. More importantly, the risk of consumers suffering at the expense of such errant e-shops must be managed. The research has shown that there is a strong belief that the Trust Mark scheme aids. We would stress that given this conclusion, any policy put together contain a clear message that MSMEs are strongly recommended to participate in the Trust Mark scheme, setting out also the clear benefits of the scheme.

5.2.4. Other than encouraging the participation of MSMEs in the Trust Mark scheme, we recommend that there be sustained engagement with MSMEs to ensure that the Trust Mark scheme remains fit for purpose. Consultations, workshops and the like with MSMEs before, during and perhaps even after the scheme's implementation to gather their feedback will be useful. Our consultations with stakeholders have indicated that such ways are effective tools to reach out to MSMEs, bearing in mind that they sometimes lack the representation bigger businesses have by virtue of their membership in business associations and other such representative bodies.

### 5.3 The ASEAN Trust Mark scheme should be voluntary rather than mandatory

5.3.1. Our recommendation is for the proposed Scheme to be a *voluntary* scheme both in relation to participation by AMS and participation by individual e-shops.

5.3.2. In terms of participation by each AMS, this should be voluntary for the following reasons:

- (a) Unlike the EU, ASEAN does not have legal powers over AMS;
- (b) Although it is possible to conclude a formal treaty which compels all AMS to participate in the Scheme, the imposition of international law obligations on AMS under a formal treaty is likely to:



- (i) result in lengthy negotiations on the specific implementation procedures, timelines, the legal obligation of each AMS in terms of funding, enforcement and monitoring;
- (ii) deter certain AMS from participating in the Scheme at all; and/or
- (iii) increase the overall amount of resources ASEAN has to devote to kick-start the Scheme.

5.3.3. Although participation by each AMS should remain voluntary, such participation can be encouraged by calibrating the design of the Scheme such that it will practical for AMS with different legal systems, be mostly self-funding, and include cross-learning opportunities to accelerate implementation of the Scheme in all AMS (see the remaining of this Section 5 for relevant discussions on the Trust Mark criteria, funding and capacity building options).

5.3.4. In terms of participation by individual e-shops, this should also be voluntary for the following reasons:

- (a) **The implementation of a mandatory scheme will require legislative intervention at the ASEAN level and at the national level for each AMS, which can be administratively difficult and can delay the implementation of the scheme.** A mandatory Trust Mark scheme implies that the scheme should have the force of law in each AMS. Given that ASEAN does not have supranational powers, a mandatory regional Scheme would first require the AMS to enter into a formal treaty for the implementation of the scheme. By comparison with the EU Trust Mark scheme (although the EU Trust Mark scheme is not strictly speaking mandatory, it is established by law), each AMS will minimally be obliged under the treaty to appoint or establish competent authorities to ensure proper enforcement of the scheme. It is foreseeable that given the disparity in experience with implementing e-commerce Trust Mark schemes across the different AMS, some AMS may be hesitant with undertaking such an obligation under international law, which will be an obstacle for implementing an ASEAN e-commerce Trust Mark scheme that covers at least a significant number of AMS and the e-shops therein.
- (b) **A mandatory scheme may deter smaller players from entering the e-commerce market, which goes against the ASEC's vision of encouraging MSMEs to engage in more digital trade and their compliance with the Trust Mark scheme.** A mandatory obligation to be compliant with the Trust Mark scheme to participate in the e-commerce market increases the barrier of entry into the e-commerce industry, which may cause unintended competitive harm. Given that a significant number of AMS are emerging economies with relatively low e-payment readiness and e-payment penetration rates,<sup>117</sup> it should be expected that a significant number of MSMEs will be unfamiliar with the legal

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<sup>117</sup> See Chen, L., 'Improving Digital Connectivity for E-commerce: A Policy Framework and Empirical Note', in Chen, L. and F. Kimura (eds.), E-commerce Connectivity in ASEAN. Jakarta, Indonesia: Economic Research Institute for ASEAN and East Asia (2020) at Figure 2.9 and Table 2.6: [https://www.eria.org/uploads/media/E-commerce-Connectivity-in-ASEAN/6\\_Chapter-2\\_Improving-Digital-Connectivity-for-E-commerce\\_A-Policy-Framework-and-Empirical-Note.pdf](https://www.eria.org/uploads/media/E-commerce-Connectivity-in-ASEAN/6_Chapter-2_Improving-Digital-Connectivity-for-E-commerce_A-Policy-Framework-and-Empirical-Note.pdf). (last accessed 3/11/2021) This is corroborated by our stakeholder interviews with [redacted] and [redacted].

landscape of e-commerce transactions. A requirement for all e-commerce B2C e-shops to be compliant with the regional Trust Mark will likely:

- (i) Deter existing MSMEs operating on a brick-and-mortar basis from taking their businesses online; and
  - (ii) Create a dilemma between having stringent Trust Mark criteria which deter MSME entry to a greater extent and having laxer Trust Mark criteria which negatively affect consumer perception of the effectiveness and credibility of the Trust Mark scheme.
- (c) **A mandatory scheme can only be credible if each AMS undertakes active market monitoring and enforcement action against non-compliance e-shops.** However, given the sheer number of e-shops, the cost of such monitoring and enforcement may be prohibitively high for certain AMS. This will in turn impact the considerations of funding source (e.g. whether to charge a significant accreditation fee for compliance with the scheme, which can again deter MSME entry).
- 5.3.5. Given the foreseeable obstacles for implementing a mandatory scheme, our view is that a voluntary scheme is preferable to ensure maximum participation in the Scheme.
- 5.3.6. A possible downside of a voluntary scheme is the lack of participation in the scheme. However, our view is that this potential downside can be overcome with measures including but not limited to:
- (a) Aggressive marketing of the Trust Mark scheme in the initial stages, which raises consumer awareness of the scheme and encourages e-shops to participate due to the network effects as explained earlier in this Report. To this end, several studies on Trust Mark schemes have suggested that the publicity of Trust Mark scheme is key to ensuring participation by business<sup>118</sup>; and
  - (b) Subsidy or waiver of accreditation fees in the initial stages to build a certain base number of participants in the scheme and thus increase consumer awareness of the same – e-shops accredited are likely to self-market the scheme to consumers to reap the value of the accreditation.
- 5.4. The ASEAN Trust Mark scheme should operate as a dual-layered scheme where ASEAN designs the Trust Mark criteria but the responsibility for verifying and monitoring compliance is delegated to national supervisory/competent bodies in the AMS**
- 5.4.1. We recommend following the precedent of the Ecommerce Europe Trust Mark and EU Trust Mark schemes in building a dual-layered scheme. This will see ASEAN being responsible for designing the Trust Mark criteria and structure of the Scheme. At the second layer, the operational responsibility of verifying and monitoring compliance with the Trust Mark criteria will be undertaken by the AMS either through a governmental or non-governmental body as the AMS sees appropriate.

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<sup>118</sup> NGI Forward, Report: Digital Trustmarks (2020): <https://research.ngi.eu/wp-content/uploads/2020/01/NGI-Forward-Digital-Trustmarks.pdf> (last accessed 13/11/2021)

- 5.4.2. Our recommendation is based on our review of prominent regional or global Trust Mark schemes,<sup>119</sup> where such cross-border Trust Mark schemes typically delegate monitoring responsibilities to national organisations. One of the reasons for doing so could be due to the costs involved in building up local knowledge and establishing local points of contact within the regional administration body itself. Further, if the regional Trust Mark is implemented by national Trust Mark associations or public authorities or other organisations (including for-profit private organisations) which already have visibility amongst the AMS, this will accelerate participation by e-shops in that AMS.<sup>120</sup>
- 5.4.3. It is foreseeable that some AMS, in particular, Laos, Brunei and Myanmar which do not have any existing e-commerce Trust Mark schemes, may not immediately have the experienced know-how that will aid them in effectively implementing the Scheme. Taking heed from the ASEAN Capacity Building Roadmap for Consumer Protection 2020-2025,<sup>121</sup> our view is that there are several options for capacity building which can overcome this issue, including:
- (a) Organising workshops where all National Bodies participate and share best implementation practices;
  - (b) Secondment of staff from National Bodies with less experience ("**Assisted National Bodies**") to National Bodies with more experience or expertise ("**Assisting National Bodies**") so that the former can pick up fieldwork experience in implementing Trust Mark schemes; and
  - (c) Secondment of experts and consultants from Assisting National Bodies to Assisted National Bodies to provide training for the latter's staff.
- 5.4.4. In our view, capacity building should start even before the implementation of the Scheme to ensure a smooth onboarding process for e-shops once the Scheme takes effect.
- 5.5 The ASEAN Trust Mark scheme may be supported at least in part by private funding via accreditation fees**
- 5.5.1. To ensure viability of the Scheme in the long term, it is important that the scheme receives a constant source of funding. To this end, it may be a financial burden on ASEAN and the individual AMS if the scheme is purely supported by public funding. As an example, it was reported that the WebTrader scheme, a Trust Mark scheme operated by consumer organisations in EU member states which was provided free of charge for e-shops, was closed down due to lack of funding despite its apparent success based on the number of e-shops certified (> 2,700) and disputes resolved (> 2,000).<sup>122</sup> This is despite the fact that the scheme was launched with the funding support of the European Commission. A consumer association in one of the AMS countries that had plans to implement a Trust Mark scheme also ran into

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<sup>119</sup> Namely the Ecommerce Europe Trust Mark scheme, EU trust mark scheme, eConianza Trust Mark scheme and the Safe.Shop scheme.

<sup>120</sup> This was corroborated by our interview with [redacted], which explained that a major reason for Safe.Shop's (a former global e-commerce trust mark provider) their operations closure was the difficulty in operationalising an international Trust Mark due to lack of brand recognition from consumers.

<sup>121</sup> ASEAN Capacity Building Roadmap for Consumer Protection 2020-2025: [http://aadcp2.org/wp-content/uploads/ASEANCapacityBuildingRoadmap2020-2025\\_20200303.pdf](http://aadcp2.org/wp-content/uploads/ASEANCapacityBuildingRoadmap2020-2025_20200303.pdf), (last accessed 13/11/2021).

<sup>122</sup> See Pan-EU Study at page 71

funding issues, which in turn led to the cessation of the initiative. <sup>123</sup>

- 5.5.2. On the other hand, charging fees may deter the key target beneficiaries of the Scheme, MSMEs, from applying for accreditation. That said, to encourage MSMEs to obtain the Trust Mark, the accreditation fees can be charged on an annual basis and be scaled according to the size of the e-shops (e.g. based on its number of employees or annual turnover). Such a scaled fee model is adopted by Confianza Online and e-market. The higher fees paid by larger companies, which can perhaps be subject to a reasonable cap, will also help to sustain the Trust Mark scheme. AMS may consider if the same accreditation fees should apply across all AMS to avoid arbitrage and the situation where a e-shops operating in several AMS concurrently chooses to be certified in the country with the lowest cost.
- 5.5.3. On balance, our recommendation is for individual AMS to consider supporting the implementation of the Scheme with private funding. In this regard, our recommendation is for the scheme to run on accreditation fees payable by e-shops, such that the variable costs associated with accrediting each e-shop and providing other value-added services such as ADR services (if offered) are directly covered by the accreditation fees. There will be no administrative fee charged by ASEAN for issuing the Trust Mark and it is contemplated that the fees will be payable by e-shops to the National Bodies in each AMS, seeing as ASEAN does not have a mechanism to receive fees from AMS. Such a private-sector driven approach would be a practical and ensure sustainability and longevity for the Scheme, noting our observations above that a scheme purely supported by public funding will be a significant drain on ASEAN and AMS. The fact that the WebTrader Scheme ultimately ran into funding issues despite having been funded by the European Commission supports our general recommendation for an (at least partly) private-sector driven approach.
- 5.5.4. Such an approach will also see the delegation of responsibility to verify and monitor compliance with the Trust Mark scheme to National Bodies. In doing so, accreditation fees can be kept at a reasonable level for e-shops across different AMS as the cost of services in each AMS will be pegged to the local currency of that AMS.

## 5.6 The ASEAN Trust Mark criteria must be clear, achievable and publicly accessible

- 5.6.1. As explained at paragraph 4.4.1 above, the Trust Mark criteria must be:
- (a) Clear in scope and transparent;
  - (b) Achievable by MSMEs; and
  - (c) Publicly accessible.
- 5.6.2. More specifically, based on the Trust Mark schemes we have reviewed, we set out in Table 5 below what we perceive as a list of criteria which should be included in the ASEAN Trust Mark's Trust Mark criteria. While there are no uniform or standard criteria, the Trust Mark criteria reflect some of the most common criteria adopted by existing Trust Mark schemes and are calibrated to ensure that they can be reasonably met by MSMEs. These criteria are intended to signify to consumers that these accredited e-shops have met the high standards imposed under the scheme and that they can proceed to patronize these e-shops with greater peace of mind. At the same time, these criteria tend to be pitched at a level that is not too burdensome on MSMEs,

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<sup>123</sup> This was observed from our stakeholder interview with [redacted].

which is key in ensuring that the Trust Mark schemes in question remain inclusive for MSMEs and create an equal playing field amongst MSMEs. The same principle should be applied to the Scheme as MSMEs play an important role in the ASEAN regional economy. It should be noted that these criteria do not prevent sectors with unique characteristics from imposing additional criteria relevant to their sector, although the general criteria under the Scheme must nonetheless be met to ensure the integrity of the ASEAN Trust Mark accreditation.

- 5.6.3. For instance, the Hong Kong Consumer Council ("**HKCC**") is conscious that online consumption dynamics are affected by the industry and goods or services concerned. Thus, when monitoring compliance by retailers with its consumer protection laws, the HKCC uses different metrics. In the groceries sector, the HKCC reminds consumers to check if the quality and quantity of products received matches their orders, and for the pre-booking taxi sector, the HKCC studies and compares various taxi apps to review the consumers' rights in relation to collection and access of data. The adoption of more specific guidelines that can guide compliance in different sectors is a possibility that can be explored to supplement the Scheme. Until then, e-shops are in any event required to comply with sectoral laws and regulations imposed by each AMS (in line with Commitment 5 of the AOBCCOC.)
- 5.6.4. In this regard, we note that the ASEAN Online Business Code of Conduct ("**AOBCCOC**") contains the following 15 core commitments towards consumers which are intended to be easily applied and adapted in the context of different jurisdictions and will be particularly applicable to MSMEs in the ASEAN region. We have thus incorporated this list of commitments into our proposed Trust Mark criteria.:
- (a) We (i.e. businesses) treat consumers fairly – we do not engage in illegal, fraudulent, unethical or unfair business practices that can harm consumers ("**Commitment 1**").
  - (b) We uphold our responsibilities - We value consumer rights to the same extent as traditional bricks-and-mortar businesses ("**Commitment 2**").
  - (c) We comply with laws and regulations - We respect the policies, laws and regulations in the countries where our goods and services are marketed ("**Commitment 3**").
  - (d) We conform to local standards - We apply the necessary standards and provide accurate information in the local language of the countries where our goods and services are marketed ("**Commitment 4**").
  - (e) We ensure quality and safety - We make no compromises about product and food safety, and do not offer products which have been recalled, banned or prohibited. Similarly, we make sure our services are of high quality. This is considered a shared responsibility along our entire supply chain ("**Commitment 5**").
  - (f) We communicate honestly and truthfully - We provide easily accessible, complete and correct information about our goods and services, and adhere to fair advertising and marketing practices ("**Commitment 6**").
  - (g) We are transparent on costs - We are open about the prices we charge and do not hide any additional costs (such as customs duties, currency conversion, shipping or delivery) ("**Commitment 7**").

- (h) We keep proper records of purchases - We provide complete records of the goods purchased, and have them delivered in the promised time and described condition ("**Commitment 8**").
  - (i) We offer options for cancellation - We allow consumers to review their transaction before making the final purchase, and to withdraw from a confirmed transaction in appropriate circumstances ("**Commitment 9**").
  - (j) We take consumer complaints seriously - We have a fair and transparent system to address complaints, and provide appropriate compensation, such as refund, repair, replacement, as described in the warranty ("**Commitment 10**").
  - (k) We keep information private - We actively protect the privacy of consumers, and ask for permission if we collect, use or share personal data ("**Commitment 11**").
  - (l) We make sure online payments are safe - We safeguard sensitive data by choosing the appropriate secure technology and protocols, such as encryption or SSL, and display trust certificates to prove it ("**Commitment 12**").
  - (m) We avoid online spamming - We allow consumers to choose whether they wish to receive or opt out from commercial messages by e-mail or other electronic means ("**Commitment 13**").
  - (n) We do not produce fake online reviews - We do not restrict the ability of consumers to make critical or negative reviews of our goods or services, or spread wrong information about our competitors ("**Commitment 14**").
  - (o) We educate consumers about (online risks) - We help consumers in understanding the risks of online transactions, and provide competent guidance if needed ("**Commitment 15**").
- 5.6.5. As with other Trust Mark schemes, the Trust Mark criteria will be general in nature, but may be supplemented with specific requirements, guidance and forms as may be necessary or helpful for e-shops to satisfy the principles.<sup>124</sup> This allows the National Bodies to have some flexibility in the actual implementation of the accreditation and monitoring processes as a strict one-size-fits-all approach may not be applicable in all AMS given the variance in legislations and enforcement systems. However, the Trust Mark criteria itself should be designed and reviewed by the trust regional body with oversight over the Scheme (hereinafter, we will refer to ASEAN as the regional body) to give it greater credence.
- 5.6.6. If an AMS' National Body assesses that the requirements under a national Trust Mark scheme (if applicable) is consistent with, or more stringent than, the Trust Mark criteria, it is recommended that it be left open for that National Body to:
- (a) if it is the administrator of the national Trust Mark scheme in question, issue the ASEAN Trust Mark to all e-shops that have obtained the national Trust Mark; and

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<sup>124</sup> For examples of how this is done for other Trust Mark schemes please see **Annex B**.



- (b) if it is not the administrator of the national Trust Mark scheme, treat the attainment of the national Trust Mark by an e-shop as conclusive evidence that the e-shop satisfies the Trust Mark criteria.

Table 5: List of Trust Mark Criteria

S/N	Criterion	Examples of Trust Mark schemes adopting criterion	Explanation
1.	E-shop must display clear information on its identity and business contact information.	<ul style="list-style-type: none"> <li>Ecommerce Europe</li> <li>Hong Kong Trust Mark</li> <li>FEVAD</li> <li>E-market</li> <li>Retail Excellence</li> <li>CaseTrust</li> <li>Confianza Ecommerce CCS</li> <li>Clique e-Valide</li> </ul>	<p><u>Rationale</u></p> <p>This increases consumer confidence as consumers will be assured that the e-shop is properly registered/incorporated (if necessary under local laws and regulations) and/or can be contacted should there be any problems with the transaction. It also operationalizes Commitment 6 of AOBCOC regarding honest and truthful communication.</p> <p><u>Recommendations on specific requirements/guidance on fulfilling criterion</u></p> <p>The information provided should be sufficient for consumers to verify the identity of the e-shop and effectively contact the e-shop for complaints or refunds. The information provided should minimally include:</p> <ul style="list-style-type: none"> <li>Name of e-shop or owner</li> <li>Email address or phone number or a physical address to which consumers can address any complaints they may have</li> <li>Business registration number (if applicable)</li> </ul>
2.	E-shop must accurately describe the key characteristics of the products or services and keep proper records of	<ul style="list-style-type: none"> <li>Sure Seal</li> <li>CaseTrust</li> <li>Ecom Viet</li> <li>Ecommerce Europe</li> <li>Hong Kong Trust Mark</li> <li>FEVAD</li> <li>E-market</li> </ul>	<p><u>Rationale</u></p> <p>The general requirement for accurate description of key characteristics of products or services should be applicable to e-shops in all AMS. These requirements should be in line with the regional consumer protection law and regulations guidelines which will be developed under the ASAPCP, <sup>125</sup> to ensure consistency</p>

<sup>125</sup> See ASAPCP Schedule



	consumers' purchases.	<ul style="list-style-type: none"> <li>• Confianza Online</li> <li>• Confianza Ecommerce CCS</li> <li>• Clique e-Valide</li> </ul>	<p>between the ASEAN Trust Mark requirements and future consumer protection legal regimes in each AMS. Amongst others, we understand that the ASAPCP envisions the development of an ASEAN Guidelines on e-Commerce by 2022, which will be highlight relevant in guiding the Trust Mark criteria in general.</p> <p>AMS may also choose to make reference to local consumer protection legislations which may have more specific requirements as to product description. Compliance with applicable national legislation can be a requirement for satisfying this criterion insofar as it is relevant for satisfying the principle of accurately describing key characteristic of products and services so as to not mislead consumers.</p> <p>To this end, we are aware that all ten AMS have enacted consumer protection laws that either protect the consumer's right to information about the product or service, or prohibit e-shops from using false, misleading, or deceptive descriptions/advertisements.<sup>126</sup></p> <p><u>Recommendations on specific requirements/guidance on fulfilling criterion</u></p> <p>Taking guidance from the United Nations' Guidelines for Consumer Protection ("UNGCP") which was cited in the Handbook on ASEAN Consumer Protection Laws and Regulations,<sup>127</sup> the touchstone is that the e-shops should provide complete and accurate information about the goods and/or services provided, the terms and conditions for doing so, applicable fees</p>
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<sup>126</sup> See ASEAN CP Handbook, where Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Thailand and Vietnam protect the consumer's right to information, and Brunei and Singapore protect against unfair practices such as making false claims or misleading consumers about products and services. Since the handbook was published, Cambodia has also enacted its Law on Consumer Protection (Consumer Protection Law) on November 2, 2019, which regulates unfair trading activities and unfair practices such as false, misleading, or deceptive advertisements: See also Tilleke & Gibbins International Ltd, 'Cambodia Enacts a New E-commerce Law and a Consumer Protection Law': <https://www.tilleke.com/insights/cambodia-enacts-new-e-commerce-law-and-consumer-protection-law/> (last accessed 25/10/2021)

<sup>127</sup> ASEAN CP Handbook at page 8

			<p>charged and final costs payable by consumers. The AOBCOC similarly lists transparency of costs as a commitment that online businesses should undertake as an indicator that they are acting responsibly and fairly towards consumers.<sup>128</sup></p> <p>Relevant transaction information should also be retained in case of disputes or audits.</p> <p>The above recommendations are consistent with the requirements under Commitments 6, 7 and 8 of the AOBCOC, which effectively requires businesses to commit to providing complete and correct information on goods and services and all price components, and hence adhere to fair advertising and marketing practices while keeping relevant transaction records.</p>
3.	E-shop must remind consumers about the existence of any legal guarantees of conformity for goods or legal rights of withdrawal.	<ul style="list-style-type: none"> <li>• CaseTrust</li> <li>• Ecom Viet</li> <li>• Ecommerce Europe</li> <li>• FEVAD</li> <li>• Confianza Online</li> </ul>	<p><u>Rationale</u></p> <p>This requirement conforms with the concept of aiding consumers in making informed choices and operationalizes Commitments 2,3 and 4 of the AOBCOC which effectively requires e-shops to undertake the same responsibilities as brick-and-mortar businesses, respect laws and regulations of the country where their goods and services are marketed and apply necessary local standards.</p> <p><u>Recommendations on specific requirements/guidance on fulfilling criterion</u></p> <p>To the extent that there are no common legal criteria for guarantees or rights of withdrawal across AMS,<sup>129</sup> this criterion is typically made with reference to national legislation (i.e. this criterion is satisfied once the e-shop demonstrates compliance with national laws in this regard), and the</p>

<sup>128</sup> ASEAN Online Business Code of Conduct (2020): [https://aseanconsumer.org/file/post\\_image/2020-02-26%20ASEAN%20COC%20\(fin\).pdf](https://aseanconsumer.org/file/post_image/2020-02-26%20ASEAN%20COC%20(fin).pdf) (last accessed 16/11/2021).

<sup>129</sup> Under the ASEAN CP Handbook, it is not clear that all ten AMS provides consumers with implied guarantees of the quality of goods.

			<p>specific requirements for fulfilling this criterion may thus vary amongst AMS.<sup>130</sup></p> <p>That said, where consumer protection laws in an AMS is deemed to be lacking in this regard, it is possible to hold e-shops in that AMS to a higher standard by specifying, for instance, that e-shops must provide a minimum legal guarantee period based on industry standards or based on the guidelines to be developed under the ASAPCP. As a guide, EU laws currently require that sellers of goods provide consumers with a minimum 2-year guarantee as a protection against faulty goods or goods that do not conform with their advertisements.<sup>131</sup> As many items sold online are small value items, the minimum legal guarantee period required under the Scheme can be adjusted as appropriate.</p> <p>The advantage of having consistency in the guarantee period required under the Scheme is ease of transaction for consumers and ease of managing complaints under an ODR/ADR platform associated with the Trust Mark, if any (e.g. the ODR platform can be automated to include an initial filter of complaints based on the date of complaint relative to the date of purchase).</p>
4.	Secure payment methods	<ul style="list-style-type: none"> <li>• Ecommerce Europe</li> <li>• Hong Kong Trust Mark</li> <li>• FEVAD</li> <li>• E-market</li> <li>• Confianza Online</li> <li>• Confianza Ecommerce CCS</li> <li>• Clique e-Valide</li> </ul>	<p><u>Rationale</u></p> <p>This criterion is found in effectively all of the Trust Mark schemes reviewed, although the specificity of the criterion differs.</p> <p>This criterion is especially important given that there is a lot of room for greater e-payments penetration in ASEAN countries, and security of payments in e-commerce</p>

<sup>130</sup> Trust marks report 2013 "Can I trust the trust mark?" (2013) ("ECC-Net Study"): [https://ec.europa.eu/info/sites/default/files/trust\\_mark\\_rport\\_2013\\_en.pdf](https://ec.europa.eu/info/sites/default/files/trust_mark_rport_2013_en.pdf) (last accessed 25/10/2021). The ECC-Net Study revealed that the majority of trust mark schemes provide consumers with complaint times in correlation with the legal requirements in their respective country.

<sup>131</sup> Your Europe website:: [https://europa.eu/youreurope/business/dealing-with-customers/consumer-contracts-guarantees/consumer-guarantees/index\\_en.htm](https://europa.eu/youreurope/business/dealing-with-customers/consumer-contracts-guarantees/consumer-guarantees/index_en.htm) (last accessed 25/10/2021).

			<p>transactions may be a key factor in encouraging the take-up of e-payments processes.</p> <p><u>Recommendations on specific requirements/guidance on fulfilling criterion</u></p> <p>While some Trust Mark schemes impose a general requirement to ensure security of payments,<sup>132</sup> others such as FEVAD, Asociación de Internet MX and TrustedSite specify that this criterion requires that the e-shops use an address that begins with "https://" and that there should be the presence of an icon representing a padlock in browser window (i.e. that the website is secured by a Secure Socket Layer (SSL) certificate).<sup>133</sup></p> <p>To the extent that payments security regulations across AMS may differ, the industry standard requirement for an SSL or TLS certificate,<sup>134</sup> for instance, should be adopted to ensure an appropriate level of stringency and cohesiveness for this criterion. In line with commitment 12 of the AOBCCOC, the business should also display the relevant trust certificates to demonstrate such compliance with this criterion. To the extent that the e-shop is listed on an e-commerce marketplace or platform that provides such secure payment methods, the e-shop should be taken to have complied with this criterion.</p>
5.	Compliance with data protection legislation	<ul style="list-style-type: none"> <li>• Ecommerce Europe</li> <li>• Hong Kong Trust Mark</li> <li>• FEVAD</li> </ul>	<p><u>Rationale</u></p> <p>Protection of personal data is an important factor in securing trust in an e-shop. More than half of the consumers in a survey</p>

<sup>132</sup> See e.g. the HKCOP which simply states a requirement for "secure payment methods".

<sup>133</sup> See e.g. page 14 of the FEVAD Quality Charter (Original wordings in French: "L'entreprise adhérente prend toutes les précautions en matière de sécurisation des paiements. Elle utilise ainsi des pages sécurisées pour les transactions. Cela se traduit généralement par une adresse qui commence par «https://» et par la présence d'une icône représentant un cadenas verrouillé dans la fenêtre du navigateur.")

<sup>134</sup> See PCI Security Standards Council's website: [https://www.pcisecuritystandards.org/pci\\_security/](https://www.pcisecuritystandards.org/pci_security/) (last accessed 14 November 2021), for standards set by the PCI Security Standards Council (which makes references to SSL and TLS, and which is followed by major payments providers such as VISA (see <https://www.visa.com.sg/partner-with-us/pai-dss-compliance-information.html>))

		<ul style="list-style-type: none"> <li>• E-market</li> <li>• Confianza Online</li> <li>• Confianza Ecommerce CCS</li> <li>• Clique e-Valide</li> </ul>	<p>indicated that data privacy concerns caused them to decide against buying something online, and more than 70 percent of consumers in Singapore and Malaysia, for instance, feel that the inadequacy in data protection measures taken by companies resulted in their lack of trust and hesitation in making online purchases.<sup>135</sup></p> <p>This operationalizes Commitment 11 of the AOBCOC which requires e-shops to keep protect privacy of consumers and request for permission when handling such data.</p> <p><u>Recommendations on specific requirements/guidance on fulfilling criterion</u></p> <p>As the standard of protection under each AMS' data privacy/protection laws significantly differ and some AMS may not have implemented such laws, the ASEAN Trust Mark's Guidelines can state that at the minimum, e-shops must comply with the principles of ASEAN Framework on Personal Data Protection.<sup>136</sup> Thus, amongst others,</p> <ul style="list-style-type: none"> <li>• An e-shop should collect, use or disclose personal data if the individual has been notified of and given consent to the purpose(s) of such collection, use or disclosure of his/her personal data or the collection, use or disclosure without notification or consent is authorised or required under the AMS' domestic laws and regulations.</li> <li>• The e-shop should take appropriate measures to adequately protect personal data against loss and unauthorised access, collection, use, disclosure, copying, modification, destruction or similar risks (e.g. by</li> </ul>
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<sup>135</sup> KPMG's survey report 'Crossing the line: Staying on the right side of consumer privacy' (2016): <https://assets.kpmg/content/dam/kpmg/sg/pdf/2016/11/KPMG-Cyber-Security-Privacy-Report.pdf>, (last accessed 14/11/2021).

<sup>136</sup> ASEAN Framework on Personal Data Protection (2016): <https://asean.org/wp-content/uploads/2012/05/10-ASEAN-Framework-on-PDP.pdf> (last accessed 14/11/2021)

			<p>ensuring safe storage of personal data and restriction of access to personal data)</p> <p>This again ensures consistency between the ASEAN Trust Mark requirements and future data protection legal regimes in each AMS.</p>
6.	Allow for easy feedback / reviews to be provided by consumers	<ul style="list-style-type: none"> <li>• NA</li> </ul>	<p><u>Rationale</u></p> <p>This criterion does not appear to be expressly identified in Trust Mark providers' schemes, and yet is commonly used by e-shops to secure trust from consumers. The importance of a review system to building trust in an e-shop was also highlighted by <b>[redacted]</b> in the stakeholder interview. Consumer review is often viewed as perhaps the best police to whether an e-shop is operating in a fair and reasonable manner without misrepresentation.</p> <p><u>Recommendations on specific requirements/guidance on fulfilling criterion</u></p> <p>This would require the e-shop to provide a channel (e.g. review section) for consumers to post reviews and ratings. In line with Commitment 14 of the AOBCCOC, the e-shop must not amend such review or ratings or remove negative ratings.</p>
7.	Information on, or commitment to an ADR/ODR process	<ul style="list-style-type: none"> <li>• Ecommerce Europe</li> <li>• Hong Kong Trust Mark</li> <li>• FEVAD</li> <li>• E-market</li> <li>• Confianza Online</li> <li>• Clique e-Valide</li> </ul>	<p><u>Rationale</u></p> <p>An ADR/ODR process can resolve problems after they occur, e.g., after the consumer has received the good and/or service they purchased online. The presence of an avenue for consumers to seek such redress has the capacity to increase consumer trust and their willingness to transact online again<sup>137</sup>.</p>

<sup>137</sup> UNCTAD Research Paper No. 72: Consumer Trust in the Digital Economy: The Case for Online Dispute Resolution (2021): [https://unctad.org/system/files/official-document/ser-rp-2021d15\\_en.pdf](https://unctad.org/system/files/official-document/ser-rp-2021d15_en.pdf) (last accessed 7/12/2021).

		<p>The requirement to provide a link to the EU ODR Platform is a common requirement in EU Trust Mark schemes as this is a legislated requirement under Regulation (EU) No 524/2013.</p> <p>To provide context, the EU ODR Platform accepts electronic complaints in a prescribed form and informs the responding party (e-shop) about the complaint. The e-shop and complainant can, through the dispute resolution platform, directly resolve disputes. Otherwise, they are given a window period to agree to refer the complaint to certain ADR bodies (in the EU, these ADR bodies are approved in accordance with EU-level guidelines).</p> <p>Note however that the retailer is not obliged to participate in the ADR process. The platform mainly facilitates referral of disputes to ADR bodies.</p> <p>Certain Trust Mark schemes, such as Confianza Online, go further in requiring that the e-shop commits to participating the organisation's ADR process and complying with the relevant decision.</p> <p>This criterion is important as a key offering of a Trust Mark scheme, as it assures consumers that their complaints, if not resolved by the e-shop itself, can be referred and visible to an independent third-party.</p> <p>Whereas some Trust Mark schemes offer an internal ADR as a customer service, some merely offer an accessible platform for consumers to log their complaints and refer the complaints to official complaint boards (if any). It is submitted that either option is workable so long as the mechanism is made clear to consumers.</p> <p>Stakeholder interviews have suggested that a regional ADR system which requires participating National Bodies to commit to a certain level of responsibility, presumably in terms of facilitating resolution of cross-</p>
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		<p>border disputes, will provide the necessary impetus for the National Body to join the Scheme<sup>138</sup> In the absence of such a regional ADR system, there may not be sufficient motivation from established and reputable national e-commerce Trust Mark bodies to undertake the additional duty of issuing an ASEAN Trust Mark.</p> <p><u>Recommendations on specific requirements/guidance on fulfilling criterion</u></p> <p>E-shops seeking to be accredited under the Scheme should allow for provide a link to the ASEAN ODR Platform and contact information of the AMS authority with the power to hear consumer-related disputes in their jurisdictions. This builds on a current framework, ensuring alignment with other ASEAN initiatives, and also best allows for the resolution of cross-border disputes.</p> <p>While the ASEAN ODR Platform remains a work in progress and dispute resolution for the ASEAN Trust Mark may require coordination by the designated body within the AMS until the ASEAN ODR Platform is fully implemented, the online complaint platform it is already active and accessible via the ACCP's website.<sup>139</sup> Until the ODR Platform is fully operational, consumer complaints will be directly lodged to the consumer protection authority in each AMS.</p> <p>The ASEAN ODR Platform is currently overseen by ACCP. Based on the feasibility study preceding the set-up of the ASEAN ODR platform<sup>140</sup> and the complaint form on the ASEAN ODR Platform, the function of the ASEAN ODR Platform is to interlink national ODR platforms of consumer protection agencies and feeding transaction parties and the national consumer</p>
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<sup>138</sup> See [redacted]

<sup>139</sup> At <https://aseanconsumer.org/consumer-complaint>

<sup>140</sup> Feasibility Study: ASEAN Online Dispute Resolution (ODR) Network (2020): [https://aseanconsumer.org/file/Completed%20Projects/Feasibility%20Study%20ASEAN%20ODR%20\(GIZ\)%20Final%20ENDORSED%20-%202012Nov20.pdf](https://aseanconsumer.org/file/Completed%20Projects/Feasibility%20Study%20ASEAN%20ODR%20(GIZ)%20Final%20ENDORSED%20-%202012Nov20.pdf), (last accessed 13/11/2021).

		<p>protection agency with data necessary to resolve the dispute. The ASEAN ODR Platform also provides a tracking number for complainants to track the dispute resolution process.<sup>141</sup> This function is similar to that of the EU ODR Platform.</p> <p>Based criterion 1 above, consumers should already be able to contact e-shops under the Scheme directly to negotiate a private settlement of disputes. However, the requirement for e-shops to provide a link to the ASEAN ODR Platform adds two additional safeguards:</p> <ul style="list-style-type: none"> <li>(a) E-shops that are not responsive at their stated addresses or emails or numbers can be contacted by local consumer protection authorities to provide a response to the consumer;</li> <li>(b) If the e-shop does not respond to the complaint, the local consumer protection authority may exercise discretion to initiate ADR processes in accordance with local regulations or practices.</li> </ul> <p>This ensures consumers that egregious breaches will unlikely go unnoticed and lends credence to the Scheme.</p> <p>For completeness, while the requirement for e-shops to pre-commit to participation in an ADR process would greatly boost confidence in the Scheme, this will likely be viewed as prohibitive to MSMEs given the additional time and cost involved. In addition, certain AMS may not have official arbitration or mediation venues for consumer transaction disputes<sup>142</sup> The</p>
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<sup>141</sup> At <https://aseanconsumer.org/tracking-number>, (last accessed 13/11/2021).

<sup>142</sup> Based on the ASEAN CP Handbook, Cambodia, Malaysia and Philippines do not have such arbitration or mediation options. Note however that Malaysia has a Tribunal for Consumer Claims which acts as an “alternative forum to civil courts for consumers to claim redress in respect of any goods and services purchased in a convenience, fast manner and at a minimal cost” (see: <https://www.kpdnhep.gov.my/en/corporate-info/department/tribunal-for-consumer-claims.html>), and the Philippines’ Department of Trade and Industry-

			<p>eIDAS Regulation and Implementing Regulation similarly do not require e-shops to pre-commit to an ADR process (although e-shops in certain industries may be required to do so under local sectoral regulations).</p> <p>To the extent that each AMS will set up and harmonize the standards for ADR bodies entrusted with resolution of consumer complaints in accordance with the ASEAN ADR Guidelines, the requirement for e-shops to pre-commit to the ADR process to receive the Trust Mark under the Scheme can be a point for future consideration.</p> <p>These requirements operationalise Commitments 10 and 15 of the AOBCOC regarding taking consumer complaints seriously (including by providing a fair and transparent system to address complaints) and educating consumers about online risks.</p>
8.	Fair returns and refund policy, and requirement to provide clear information on the same.	<ul style="list-style-type: none"> <li>• Asociación de Internet MX</li> <li>• HKFEC</li> <li>• E-market</li> <li>• FEVAD</li> <li>• Confianza Online</li> <li>• Clique e-Valide</li> </ul>	<p><u>Rationale</u></p> <p>This criterion is also specified in some Trust Mark schemes as the requirement to provide consumers with a minimum cooling-off period during which the consumer may request for refunds and returns. Some Trust Mark schemes go further to directly provide refunds for consumers that do not receive refunds from its accredited e-shops – this mechanism will greatly increase consumer confidence in the Trust Mark scheme.<sup>143</sup></p> <p>The general rationale is that if a Trust Mark is only granted to trustworthy e-shops, the need for direct refund to the consumer should only arise on very rare occasions. Thus, the offer for refunds and returns may be seen as an indication of trustworthiness</p>

Consumer Protection Group has signed Administrative Order No. 20-05 to establish a Philippine Online Dispute Resolution System (“PODRS”), a web-based national consumer complaints portal which interlinks all the country’s member agencies with consumer protection functions (see: <https://www.dti.gov.ph/archives/news-archives/dti-begins-pilot-project-of-podrs/>). The pilot run of the PODRS begun in June 2021.

<sup>143</sup> Pan-EU Study

			<p>of the e-shop. It is also a safeguard to ensure that consumers obtain the goods and services fitting the key descriptions provided by the e-shop.</p> <p><u>Recommendations on specific requirements/guidance on fulfilling criterion</u></p> <p>The e-shops should allow consumers to review their transaction before placing their final order, provide a fair return and refund policy and provide information regarding the policy (including criteria and process for returns and refunds) on their website. This is in line with Commitment 9 of the AOBCOC in terms of offering options for cancellation.</p> <p>The policy should minimally allow refunds in the case of non-delivery and returns for defective goods</p> <p>For the Scheme, we recommend having a basic requirement to require the e-shop to provide a fair return and refund policy in the case of non-delivery or defective goods and to provide clear information on the criteria and process for returns and refunds.</p>
9.	Monitoring of compliance with Guidelines	<ul style="list-style-type: none"> <li>• Ecommerce Europe</li> <li>• Hong Kong Trust Mark</li> <li>• FEVAD</li> <li>• E-market</li> <li>• Confianza Online</li> <li>• Clique e-Valide</li> </ul>	<p><u>Rationale</u></p> <p>The Scheme will not be credible if there is no mechanism to ensure that the e-shop continues to comply with the requirements after the initial accreditation.</p> <p>The monitoring mechanism operationalizes Commitment 1 of the AOBCOC as it allows the National Body to spot any illegal, fraudulent, unethical or unfair business practices.</p> <p><u>Recommendations on specific requirements/guidance on fulfilling criterion</u></p> <p>Such monitoring can come in various forms, including:</p>

		<ul style="list-style-type: none"> <li>• Re-accreditation of compliance at regular intervals (typically on an annual basis); and</li> <li>• Ad hoc checks on compliance (e.g. through the use of mystery shoppers or based on tips received from the public)</li> </ul> <p>Re-accreditation at regular intervals is helpful in maintaining confidence in the Trust Mark Scheme. In addition, ad hoc checks, especially through providing a public forum for consumers to provide tips on potential non-compliance or misuse of the Trust Mark, not only lends credibility to the enforcement of the Trust Mark scheme but also potentially reduces the costs associated with conducted a widescale market scanning for non-compliance. This may be done by including a directory of accredited e-shops under an official Scheme website/the ASEAN ODR Platform website/or each of the National Body's website and publicizing that the consumer may report any misuse of the ASEAN Trust Mark using the ASEAN ODR Platform.</p> <p>Re-accreditation at regular intervals (e.g. once every year or two years) should be conducted at least for the initial stages of the Scheme – for instance, the first 5 years of implementation of the Scheme or until there is confidence that consumers are aware of and making use of the channels through which e-shops which are no longer compliant with the Scheme may be identified (e.g. the ASEAN ODR Platform).</p> <p>Note that the more frequent the re-accreditation, the more costly it would be to operate the Trust Mark scheme. It is important to keep costs low as high costs would demand high accreditation fees and deter participation by MSMEs.<sup>144</sup> To this end, given that sustained compliance with legal or technical requirements is a merely a means to achieving the goal of consumer</p>
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<sup>144</sup> For instance, [redacted]

			safety and satisfaction, it may be preferable to prioritise ad hoc checks once it is feasible rather than regular re-accreditation. <sup>145</sup> It may also be appropriate to provide relevant disclaimers to consumers that the award of the Trust Mark does not guarantee that the e-shop is compliant with all legal requirements.
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## 5.7. There should be sanctions for non-compliance with the ASEAN Trust Mark criteria

- 5.7.1. To encourage compliance with the Trust Mark scheme and maintain consumer confidence in the Trust Mark scheme, there should be sanctions for non-compliance of the Trust Mark criteria. For example, sanctions may be imposed on e-shops that display the Trust Mark despite not meeting the criteria, or if e-shops provide false or misleading documents as proof that they have met the criteria.
- 5.7.2. In line with our observations in paragraph 4.4.4 above, such sanctions should minimally include the revocation of right to display the ASEAN Trust Mark. For a more calibrated approach, a choice of any of the following sanctions can also be imposed depending on the severity of the breach:
- (a) Warning;
  - (b) Suspension of right to use Trust Mark for specified duration;
  - (c) Blacklisting of the e-shop.
- 5.7.3. To deter misuse of the ASEAN Trust Mark and maintain the integrity of the Scheme, it is strongly recommended that the National Bodies consolidate and publish a blacklist of e-shops which have misused the ASEAN Trust Mark. ASEAN can request for these lists and either publish a master blacklist of all such errant e-shops on its own website (or the website for the ASEAN Trust Mark), or provide links to each National Body's blacklist.

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<sup>145</sup> This was the balance struck by trust mark provider [redacted], for instance, which stopped conducting regular re-accreditation when it noticed that its e-shops' non-compliance with one or two of its criterion nevertheless achieve high consumer satisfaction

## 6. Section F – Guidance on Implementation of the ASEAN Trust Mark Scheme

### 6.1. Trust Mark criteria of the ASEAN Trust Mark Scheme

#### *Scope and content*

- 6.1.1. As a preliminary point, we propose that the Scheme be implemented by way of a Memorandum of Understanding (“**MOU**”) to be entered into by the AMS given the complexity of a formal treaty to be put together. The MOU gives the ASEAN Trust Mark formality and an intention for it to be adopted in all the AMS, but without the hassles of a treaty. It is expected that the MOU will be signed at each AMS’ government level. Whilst we make reference to the government of the AMS, it is up to the AMS to designate a specific ministry in charge of consumer protection to determine how best to sign. The function could be delegated from the relevant ministry to a statutory body and in turn to another designated body. This must be left to each AMS to determine, so long as the line of authority is clear.
- 6.1.2. Under the MOU, each AMS is encouraged to appoint a National Body to operationalise the accreditation of e-shops in accordance with the Trust Mark criteria designed by ASEAN. The Trust Mark criteria will contain at least the Trust Mark criteria set out in Table 5, as follows:
- (i) Display clear information on its identity and business contact details
  - (ii) Accurately describe the key characteristics of the products or services
  - (iii) Remind consumers about the existence of any legal guarantees of conformity for goods or legal rights of withdrawal
  - (iv) Use secure payment methods
  - (v) Comply with data protection and consumer protection principles
  - (vi) Allow for easy feedback / reviews to be provided by consumers to the e-shop and for the reviews to be publicly visible
  - (vii) Provide for a means to resolve disputes informally between the consumers and the e-shop or through mediation
  - (viii) Provide a link to the ASEAN ODR Platform
  - (ix) Adopt fair returns and refund policy, and requirement to provide clear information on the same
  - (x) Continued compliance with Trust Mark criteria (i.e. the e-shop must be re-accredited or monitored for compliance with Trust Mark criteria).
- 6.1.3. Note that the intention is not to mandate the exact steps that an AMS is to take in implementing the Trust Mark Scheme, but to ensure that there are consistent principles adopted. To this end, the National Body which is the implementing organisation within each AMS can be a government ministry, a statutory agency, an NGO, or an association, whether for profit or otherwise. Ideally, the National Body in each AMS should be the authority charged with the responsibility for enforcing local consumer protection legislations and/or resolving related



consumer complaints to reduce the need for capacity building and avoid confusion by e-shops and consumers as to the relevant regulatory body overseeing consumer protection issues. This National Body can then determine how best to implement the Trust Mark criteria for the issuance of the ASEAN Trust Mark.

6.1.4. On scope, the Scheme should apply to e-shops which conduct B2C transactions. Whilst it is possible to award a variant of the ASEAN Trust Mark to e-commerce platforms which host listings from e-shops, we recommend against this. This is because we see the following difficulties in implementation:

- (a) It will be difficult to adopt a system where e-commerce platforms are awarded the ASEAN Trust Mark on the basis that it ensures or requires all e-shops listed on its platform to comply with the Trust Mark criteria. This is because:
  - (i) e-commerce platforms will find it difficult to monitor compliance by all its e-shops given the sheer number of e-shops on some of these e-commerce platforms<sup>146</sup>; and
  - (ii) given that a significant number of e-shops listed on e-commerce platforms may be MSMEs or new merchants,<sup>147</sup> these e-shops may find it hard to comply with the Trust Mark criteria without sufficient lead time and investment,<sup>148</sup> and e-commerce platforms may hesitate to impose such a requirement which could result in e-shops delisting from their platforms.
- (b) However, if the ASEAN Trust Mark is to be awarded to e-commerce platforms as well, the Trust Mark criteria can be modified/cut down to include only the subset of criteria that can be directly fulfilled by the e-commerce platform (e.g., being duly incorporated, requiring that all its retailers use its (secure) payment system and requiring that all retailers be enrolled in its review and feedback systems etc.)

#### *Operation, enforcement and monitoring of the ASEAN Trust Mark Scheme*

6.1.5. As explained in paragraph 5.4 above, it is clear that an ASEAN Trust Mark implemented and managed at the ASEAN level, whilst laudable, is not sustainable without the participation and cooperation of every AMS. This is least because there are very local consumer protection requirements within each AMS which is not possible to synergise in the short term, and the cost of direct implementation and monitoring by a regional rather than national level body will likely be prohibitive given the associated start-up and learning costs involved. There are also important local cultural nuances which is best managed by the respective AMS. However, to have credence as a regional Trust Mark, the Scheme must be sanctioned and designed by ASEAN to dispel any potential concerns that there are uneven accreditation standards across different AMS. In short, the ASEAN Trust Mark is a regional trust mark adopted by each of the AMS, which operationalises it according to its local laws. There will be only one trust mark issued, which is the ASEAN Trust Mark as we here propose. However, this does not mean that other national trust marks that may currently exist cannot continue to co-exist. They can.

<sup>146</sup> For instance, Tokopedia claims to have more than 11 million merchants. See Tokopedia's website: <https://www.tokopedia.com/about/?lang=en> (last accessed 25/10/2021)

<sup>147</sup> Ibid. For instance, 86.5% of Tokopedia's merchants are new entrepreneurs

<sup>148</sup> See [redacted]

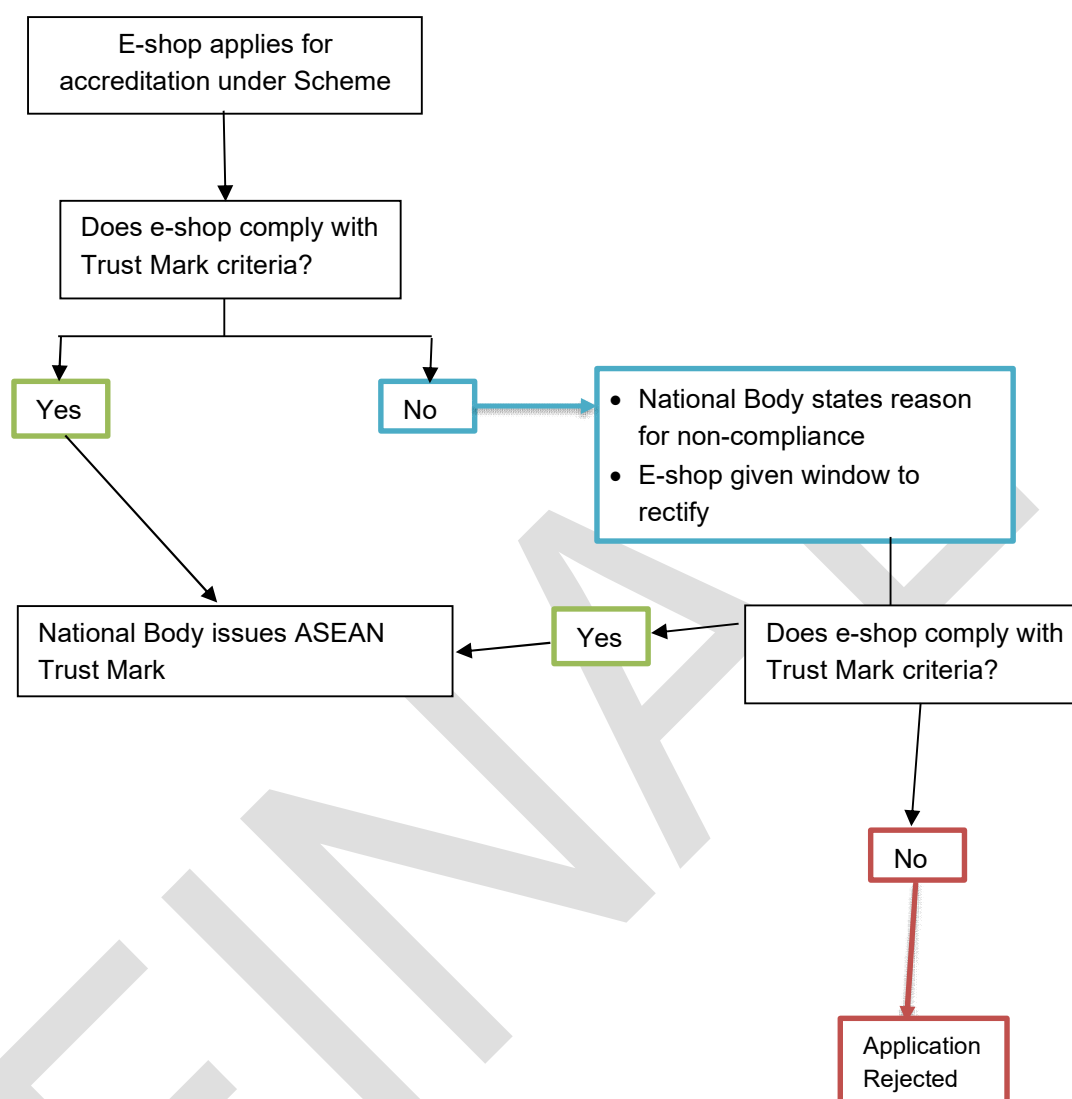
- 6.1.6. The key benefit of the ASEAN Trust Mark is that it will have recognition in all the AMSes. Hence, a consumer based in AMS 1 purchasing goods or services from an e-shop in in AMS 2 can be assured that the e-shop is credible if it carries the ASEAN Trust Mark. Importantly, the reciprocity will extend to managing disputes as well. These elements are particularly important not just to protecting the consumer, but in reality opening up the e-shop to a much bigger market into ASEAN from its traditional small market within the physical space that the e-shop operates within. This can only contribute to further growth in ecommerce.
- 6.1.7. The Scheme thus requires both the direct operational capabilities of the AMS and its designated National Body and key inputs from ASEAN in relation to the design and structure of the Scheme. In practice, there must be regular information exchange between ASEAN and the AMS together with its designated National Body, as well as amongst the different National Bodies so ASEAN may assess the effectiveness of the Scheme and amend the design of the Scheme to improve upon it as may be necessary. The powers and responsibilities of the two bodies are set out in the table below:

**Table 6: Powers and Responsibilities of Regional and National Bodies**

<b>Powers and Responsibilities of ASEAN</b>	<b>Powers and Responsibilities of National Body</b>
Design Trust Mark criteria	<p>Accreditation of e-shops in accordance with the Trust Mark criteria, exercising any necessary discretion on operational aspects such as:</p> <ul style="list-style-type: none"> <li>• the appropriate form and channel of application for accreditation</li> <li>• supporting documents required to prove compliance with the Trust Mark criteria</li> <li>• administrative fees (if any) payable for accreditation</li> <li>• Process</li> </ul>
Receive feedback from National Bodies on uptake and effectiveness of Scheme in each AMS	Monitor compliance by accredited e-shops with the Trust Mark criteria, and resolve complaints lodged against these e-shops.
Review feedback from National Bodies and amend design of Scheme and/or provide recommendations on implementation procedures, if necessary	<p>Gather relevant information on the Scheme, such as:</p> <ul style="list-style-type: none"> <li>• processes adopted to implement the Scheme</li> <li>• number of e-shops accredited</li> <li>• number of consumer complaints lodged against accredited e-shops</li> <li>• rate of resolution of complaints lodged against accredited e-shops, and provide this information as feedback to Regional Body</li> </ul>

	and provide such information to ASEAN on a regular basis.
Facilitate cross-learning opportunities amongst National Bodies to encourage development and adoption of best practices for implementing the Scheme in each AMS	Impose sanctions on e-shops for misuse and non-compliance with the Trust Mark criteria

- 6.1.8. ASEAN will design the Trust Mark criteria and have general oversight over the running of the Scheme . Where a National Body lacks in capacity, ASEAN will facilitate capacity building of that National Body.
- 6.1.9. The responsibility of verifying an e-shop's compliance with the Trust Mark criteria is delegated to the National Body appointed by the AMS. The National Body will also be responsible for implementing a scheme that allows for annual or once every two year reviews to ensure continued compliance by the e-shop with the Trust Mark criteria. Additionally, the National Body should takes steps to monitor the e-shops compliance from time to time.
- 6.1.10. To obtain the ASEAN Trust Mark, the e-shop must first meet the Trust Mark criteria for obtaining the AMS Trust Mark before it can be accredited for compliance with the Trust Mark criteria and awarded the ASEAN Trust Mark. This can be done through a checklist that the National Body will put together setting out details on the Trust Mark criteria, including expanding on certain critical local laws that must be complied with, such as consumer protection and data protection laws.
- 6.1.11. The National Body will be responsible for receiving complaints via the ASEAN ODR Platform and handling such disputes accordingly. Whilst it is recognised that the ASEAN ODR Platform is not fully functional, it remains a tool that can be used and we strongly recommend that this be done. Where applicable and where the National Body is not granted the direct power to issue penalties or directions for non-compliance within the AMS, it must take steps to refer referring the complaint to other more appropriate regulatory bodies within the AMS if a statutory or criminal offence is disclosed and/or provide information on the relevant civil claim procedures to the consumer
- 6.1.12. The recommended accreditation process under the Scheme is as visualised in the flow chart below:

**Figure 2: Recommended Accreditation Process**

6.1.13. As it may be expected that some e-shops may not be compliant with the Trust Mark criteria at the start, the National Body is encouraged to provide guidance to applicants on how to comply with the Trust Mark criteria and provide a window of perhaps one month for the e-shops to rectify any shortcomings before rejecting the application. If, after this window expires, the e-shop still does not comply, then the National Body may reject the application, and the e-shop will then have to make a fresh application for the National Body to review its application again. The National Body may decide if it wishes to cap the total number of times an e-shop may apply for accreditation and/or the period of time after rejection of application during which the e-shop may not re-apply for accreditation.

6.1.14. In terms of continued monitoring, if an e-shop that is awarded the ASEAN Trust Mark is later found to be non-compliant with the Trust Mark criteria, then subject to a short period of where the e-shop is given a chance to rectify the non-compliance, the e-shop must be required to immediately cease usage of the Trust Mark. In other words, the National Body must issue a stop use order. Recalcitrant e-shops or e-shops that misuse the Trust Mark should be made known to consumers to ensure the integrity of the scheme. This can include naming the e-shop

on a prominent and publicly accessible blacklist and/or the National Body taking legal action against the e-shop or referring the e-shop to the relevant regulator for such legal action.

- 6.1.15. The National Body will need to maintain a register of the e-shops granted the ASEAN Trade Mark, e-shops not granted, errant e-shops, complaints received, and matters resolved, amongst others. The registers will aid reciprocity which is intended by the ASEAN Trust Mark where a consumer from one AMS who may have purchased a product on-line from an e-shop in another AMS can be assured that if he has a dispute, the relevant National Bodies will assist with resolution of the matter. This is particularly important.
- 6.1.16. Before the implementation of and during the initial stages of the Scheme, there needs to be focused awareness and publicity creation for both the AMS Trust Mark and the ASEAN Trust Mark to:
- (a) generate interest from e-shops in terms of obtaining the AMS and ASEAN Trust Marks;
  - (b) generate interest from e-commerce platforms wishing to improve credibility and trust in their platforms in terms of requiring or encouraging e-shops to obtain the AMS and/or ASEAN Trust Mark prior to joining the platform; and
  - (c) allow consumers to understand the criteria for obtaining the AMS and ASEAN Trust Marks and the potential benefits of dealing with e-shops with the Trust Marks, which creates a disparity in demand for products and services from accredited and non-accredited e-shops and in turn generates demand for the Trust Marks by e-shops.

*Business model for financing and maintaining the Scheme*

- 6.1.17. The Scheme may be initially seed funded by ASEAN but will ideally also run on accreditation fees payable by e-shops such that the variable costs associated with accrediting each e-shop and providing other value-added services such as ADR services are directly covered by the accreditation fees.
- 6.1.18. The accreditation fees should be charged on an annual basis to facilitate ease of administration. It should also be set on a sliding scale basis (subject to a reasonable cap) according to the size of the e-shop (e.g. number of employees or annual turnover) to ensure affordability for MSMEs (see Section 5.3).

**6.2. Required domestic legal/regulatory reform and strengthening AMS capacity/capability for implementing the Trust Mark Scheme**

- 6.2.1. As the Scheme is not intended to be a mandatory scheme and the Trust Mark criteria are not pegged to national legislation, immediate substantive legal/regulatory reform from AMS is not required for the implementation of the Scheme. Having said this, there should be steps taken to ensure that at least laws are introduced to deal with the basic issues of consumer protection, data protection, and ecommerce legislation. We understand that this is already being undertaken at the ASEAN level working with each AMS, and hence there is no added burden on the AMS.
- 6.2.2. Separately, for implementation purposes, depending on the nature and existing powers of the National Body may currently have, the AMS may want to introduce laws or at least regulations to empower the National Body appropriately. This is not critical and need not be done immediately. However, there should be a plan put in place to have this done. Additionally, if the AMS decides to fund the scheme with public funding, it may be that regulations need to be

amended or implemented to grant the National Body the ability to, amongst others, collect fees for the accreditation process.

6.2.3. Next, the following types of capacity building efforts will likely be required:

- (a) Improving consumer awareness of and confidence in National Bodies, including ensuring proper training for staff involved in enforcing the Scheme.
- (b) Empowering National Bodies with capabilities to receive consumer complaints and resolve disputes with e-shops accredited with the ASEAN Trust Mark.
- (c) In the long run, modifying domestic legislation to ensure that domestic legislation meets the Trust Mark criteria, such that non-compliance with the Trust Mark criteria can also be punished via legal sanctions to give more bite to the Scheme.

6.2.4. As a next point, it is necessary to consider whether there should be regulations out in place to give effect to at least the following documentation which will need to be put in place to implement the scheme:

- (a) ASEAN Trust Mark criteria to be adopted in the AMS (apart from through the MOU).
- (b) Rules and regulations pursuant to which the National Body will operate under to ensure proper governance.
- (c) Application Form for e-shops to complete to be able to use the ASEAN Trust Mark.
- (d) Guidance for the National Body on how to review the e-shop's application, including guidance on how to approve a certain criterion or otherwise.
- (e) Forms that deal with granting approval or rejecting an e-shop's application.
- (f) Form for submitting a claim to the ASEAN ODR (the existing forms can be used for this purpose).
- (g) Register to maintain a list of e-shops that have been granted the ASEAN Trust Mark, a list of e-shops that were not granted the ASEAN Trust Mark, and updates on monitoring status. This register should be maintained in such a manner that it can easily be shared with ASEAN, as well as other AMS, which will then facilitate the propose reciprocity of enforcements, amongst other factors. Additionally, registers on complaints received and resolved should also be maintained.

6.2.5. The list as set out in paragraph 6.2.4 is a non-exhaustive list, but reflects the consideration that will need to be undertaken at the next stage of this process of introducing the ASEAN Trust Mark. We are currently only at the feasibility study stage, which will need to move into an adoption and implementation stage.

6.2.6. In the preparation and process of capacity building, we reiterate that ASEAN and AMS should regularly consult with the private sector as the views of various e-commerce stakeholders will be imperative in generating awareness, interest and participation in the Trust Mark scheme. While stakeholders such as business associations and consumer associations will be important, care should also be taken to ensure that there is sufficient engagement with MSMEs on a grassroots level, in line with the need for the Trust Mark to cater and be accessible to MSMEs. This ensures that the design of the Scheme will correspond to MSMEs' perspectives. This can be done by conducting consultations, dialogue sessions, workshops and the like to reach out to MSMEs.

# ANNEXES



**ANNEX A – Consolidated Findings On E-Commerce Trust Mark Schemes**

Jurisdiction	List of trust marks* and associated trust mark associations *Selected e-commerce trust marks and key private/ sectoral trust marks only	Voluntary or Mandatory	Organisation(s) administering the trust mark: Government authority vs private sector organisation / for-profit vs non-profit	Formal approval by an accreditation scheme: Is there any auditing or certification by external parties?	Criteria for obtaining trust mark: What criteria must a business meet to gain the trust mark?	Funding: Private vs Public funding	Authority: Is the trust mark established by any law or regulation?	Monitoring body: Who is responsible for monitoring compliance with the trust mark scheme?	Value of scheme: What benefits do the trust mark give to both the consumer and the businesses?	Consequence of non-compliance with trust mark requirements	Key players in the trust mark scheme
EU	Ecommerce Europe Trustmark (Ecommerce Europe).	Voluntary	Ecommerce Europe.  Ecommerce Europe is a non-profit, private industry association. Its members consist of non-profit national private industry associations and for-profit companies. <sup>149</sup>	Yes, accreditation for compliance with the Ecommerce Europe Trustmark scheme is done by the Associated NAs.	The Ecommerce Europe Trustmark applies solely to business-to-consumer (“B2C”) selling parties.  To obtain the Ecommerce Europe Trustmark, traders must: <sup>150</sup> <ul style="list-style-type: none"> <li>Demonstrate compliance with the Associated NA’s national trust mark scheme. (The requirements of each national trust</li> </ul>	Private funding.  While Ecommerce Europe does not explicitly state the source of funding for its trustmark scheme, it is a private industry association with no apparent ties to any government entities. There is no indication that	No.  While the EECOC includes an obligation to comply with data privacy laws and the EU requirement for online traders to provide a link to the Designated ODR Platform, the	Associated NAs.  The Associated NAs are responsible for certifying compliance with the EECOC. Compliance. It is suggested by several Associated NAs that compliance is regularly monitored via	<u>Traders</u>  Traders mainly obtain benefits in the form of increased consumer confidence and thus increased consumer transactions.  This is supported by the following figures cited by Retail Excellence, the Irish Associated NA	Traders found not complaint with the Ecommerce Europe Trustmark scheme requirements will not be allowed to display the trustmark.  Traders displaying the Ecommerce Europe Trustmark	<ul style="list-style-type: none"> <li>Ecommerce Europe for implementing and overseeing the Ecommerce Europe Trustmark Scheme.</li> <li>Associated NAs participating in Ecommerce Europe’s trustmark scheme (and their associated national trustmark schemes) as listed below: <ol style="list-style-type: none"> <li>BeCommerce Keurmerk</li> </ol> </li> </ul>

<sup>149</sup> The non-profit character of Ecommerce Europe is based on Ecommerce Europe’s LinkedIn page at <https://www.linkedin.com/company/ecommmerce-europe/?originalSubdomain=be>

<sup>150</sup> <https://ecommercetrustmark.eu/for-merchants/>

Jurisdiction	List of trust marks* and associated trust mark associations *Selected e-commerce trust marks and key private/ sectoral trust marks only	Voluntary or Mandatory	Organisation(s) administering the trust mark: Government authority vs private sector organisation / for-profit vs non-profit	Formal approval by an accreditation scheme: Is there any auditing or certification by external parties?	Criteria for obtaining trust mark: What criteria must a business meet to gain the trust mark?	Funding: Private vs Public funding	Authority: Is the trust mark established by any law or regulation?	Monitoring body: Who is responsible for monitoring compliance with the trust mark scheme?	Value of scheme: What benefits do the trust mark give to both the consumer and the businesses?	Consequence of non-compliance with trust mark requirements	Key players in the trust mark scheme
					mark scheme differs, but typically oblige the trader to comply with relevant regulations such as in relation to data privacy, display clear product and legal information, adopt fair contractual terms, and undergo independent audits on the foregoing. Specific requirements of the sampled trustmark schemes of Associated NAs are set out in S/N 3 to 5 below.	Ecommerce Europe receives any public funding (including seed funding) from any public authority. As national associations pay a fee to Ecommerce Europe to obtain full memberships with voting rights, it can be deduced that Ecommerce Europe is	EECOC does not have the force of law and has not been formally endorsed by the European Commission or any government agencies in EU member states.  As of 2 September 2021, none of Ecommerce Europe's Associated NAs are	ad hoc (e.g. mystery shopping) audits. <sup>153</sup>	within Ecommerce Europe's network: <sup>154</sup> <ul style="list-style-type: none"> <li>Up to 26% increase in conversion rates from displaying a trustmark logo;</li> <li>65% of EU consumers feel that a trustmark is important; and</li> <li>92% of shoppers in the</li> </ul>	without authorization will be put on a blacklist which is available for viewing on Ecommerce Europe's website. <sup>158</sup>	(BeCommerce B2C Trustmark) – Belgium 2. SafeShops.be (Verified by SafeShops.be label) – Belgium 3. Asociace Pro Elektronickou Komerce (APEK – Certifikovaný obchod) – Czech Republic 4. E-maerket (e-mark) - Denmark 5. Fevad (FEVAD label) - France 6. Greca (GRECA Trustmark) - Greece 7. Retail Excellence (Retail Excellence Trustmark) - Ireland 8. Netcomm (Sigillo Netcomm) - Italy 9. Thuiswinkel.org (Thuiswinkel Waarborg

<sup>153</sup> <https://www.retailexcellence.ie/wp-content/uploads/2019/01/Trustmark-Brochure-2019-2.pdf>

<sup>154</sup> <https://www.retailexcellence.ie/wp-content/uploads/2019/01/Trustmark-Brochure-2019-2.pdf>

<sup>158</sup> <https://ecommercetrustmark.eu/blacklist/>

Jurisdiction	List of trust marks* and associated trust mark associations *Selected e-commerce trust marks and key private/ sectoral trust marks only	Voluntary or Mandatory	Organisation(s) administering the trust mark: Government authority vs private sector organisation / for-profit vs non-profit	Formal approval by an accreditation scheme: Is there any auditing or certification by external parties?	Criteria for obtaining trust mark: What criteria must a business meet to gain the trust mark?	Funding: Private vs Public funding	Authority: Is the trust mark established by any law or regulation?	Monitoring body: Who is responsible for monitoring compliance with the trust mark scheme?	Value of scheme: What benefits do the trust mark give to both the consumer and the businesses?	Consequence of non-compliance with trust mark requirements	Key players in the trust mark scheme
					<ul style="list-style-type: none"> <li>Demonstrate compliance with the Ecommerce Europe Code of Conduct ("EECOC"). A copy of the EECOC is set out in <b>Annex A</b>. Amongst others, The EECOC requires the trader to: (a) provide adequate description of products and services; (c) be clear and transparent on offer and prices before the consumer enters the order process; (c) offer widely accepted and safe payment methods and delivery</li> </ul>	<p>sustained by private funding.</p> <p>While application for the Ecommerce Europe Trustmark itself is free, traders that wish to obtain the Ecommerce Trustmark must first be certified under the Associated NA's national trustmark scheme, which comes either with a membership fee or application/ registration fee.</p>	<p>government agencies or operate government implemented trustmark schemes. However, some Associated NAs' codes of conducts have been formally endorsed by their governments (e.g. Confianza Online, see S/N 4 below)</p>		<p>Netherlands only purchase from sites with a trustmark.</p> <p><u>Consumers</u></p> <p>For consumers, the Ecommerce Europe Trustmark gives the assurance that the trader, amongst others, complies with relevant regulations and provides safe payment methods.</p> <p>There is no direct legal benefit to a consumer for choosing a trader with an Ecommerce</p>		<p>trustmark) – Netherlands</p> <p>10. Virke e-Handel (Trygg e-Handel) – Norway</p> <p>11. Associacao Economia Digital (CONFIO stamp) - Portugal</p> <p>12. Adigital; Autocontrol (ConfianzaOnline) – Spain</p> <p>13. EHI Retail Institute (EHI Geprüfter Online-Shop) – Germany</p> <p>14. Handelsverband Österreich (Trustmark Austria) – Austria</p> <p>15. HANDELSVERBAND.s wiss (Swiss Online Garantie) – Switzerland</p> <p>16. Eesti E-kaubanduse Liit (Turvaline ostukoht trustmark) – Estonia</p>

Jurisdiction	List of trust marks* and associated trust mark associations *Selected e-commerce trust marks and key private/ sectoral trust marks only	Voluntary or Mandatory	Organisation(s) administering the trust mark: Government authority vs private sector organisation / for-profit vs non-profit	Formal approval by an accreditation scheme: Is there any auditing or certification by external parties?	Criteria for obtaining trust mark: What criteria must a business meet to gain the trust mark?	Funding: Private vs Public funding	Authority: Is the trust mark established by any law or regulation?	Monitoring body: Who is responsible for monitoring compliance with the trust mark scheme?	Value of scheme: What benefits do the trust mark give to both the consumer and the businesses?	Consequence of non-compliance with trust mark requirements	Key players in the trust mark scheme
					systems; (d) provide clear information on consumers' legal rights and obligations; (d) offer transparent and easily accessible customer service and complaints handling system (including complying with Regulation (EU) No 524/2013 on online dispute resolution for consumer disputes, which requires online traders and marketplaces established in the	Note, however, that certain Associated NAs or their national trustmark schemes (e.g. Confianza Online and e-maerket, see S/N 4 and S/N 5 below) receive or have received funding support from government agencies. <sup>152</sup>			Europe Trustmark. That said, as the EECOC requires the trader to provide a link to the Designated ODR Platform, complaints by aggrieved consumers through the Designated ODR Platform can be handled by alternative dispute resolution entities ("ADR Entity") meeting the requirements under Directive 2013/11/EU and approved by a		

<sup>152</sup> [https://www.europarl.europa.eu/RegData/etudes/etudes/join/2012/492433/IPOL-IMCO\\_ET\(2012\)492433\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/etudes/join/2012/492433/IPOL-IMCO_ET(2012)492433_EN.pdf) at paragraph 3.4.2

Jurisdiction	List of trust marks* and associated trust mark associations *Selected e-commerce trust marks and key private/ sectoral trust marks only	Voluntary or Mandatory	Organisation(s) administering the trust mark: Government authority vs private sector organisation / for-profit vs non-profit	Formal approval by an accreditation scheme: Is there any auditing or certification by external parties?	Criteria for obtaining trust mark: What criteria must a business meet to gain the trust mark?	Funding: Private vs Public funding	Authority: Is the trust mark established by any law or regulation?	Monitoring body: Who is responsible for monitoring compliance with the trust mark scheme?	Value of scheme: What benefits do the trust mark give to both the consumer and the businesses?	Consequence of non-compliance with trust mark requirements	Key players in the trust mark scheme
					EU to provide, on their websites, an electronic link to the designated online dispute resolution platform (“ <b>Designated ODR Platform</b> ”) which is developed and operated by the European Commission, and provide an e-mail address for the Designated ODR Platform to contact the trader); <sup>151</sup> and (e) respect the consumer’s privacy and data in compliance with legislation.				public authority (competent authority) of a member state, <sup>155</sup> if the parties agree or if the trader is obliged under sectoral laws to refer disputes to a certain ADR Entity. <sup>156</sup> This lends certainty to the dispute process. Even in cases where the trader does not agree to use an ADR entity, the ODR Platform will advise on the		

<sup>151</sup> Article 5 read with Article 14 of Regulation (EU) No 524/2013 on online dispute resolution for consumer disputes: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013R0524>

<sup>155</sup> Article of 9 of <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013R0524> read with <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013L0011>

<sup>156</sup> <http://www.consumer.gov.cy/MECI/cyco/cyconsumer.nsf/All/DEED2612D26D5BC3C2257FD40030AB1D?OpenDocument> and [https://ec.europa.eu/commission/presscorner/detail/en/MEMO\\_11\\_840](https://ec.europa.eu/commission/presscorner/detail/en/MEMO_11_840)

Jurisdiction	List of trust marks* and associated trust mark associations *Selected e-commerce trust marks and key private/ sectoral trust marks only	Voluntary or Mandatory	Organisation(s) administering the trust mark: Government authority vs private sector organisation / for-profit vs non-profit	Formal approval by an accreditation scheme: Is there any auditing or certification by external parties?	Criteria for obtaining trust mark: What criteria must a business meet to gain the trust mark?	Funding: Private vs Public funding	Authority: Is the trust mark established by any law or regulation?	Monitoring body: Who is responsible for monitoring compliance with the trust mark scheme?	Value of scheme: What benefits do the trust mark give to both the consumer and the businesses?	Consequence of non-compliance with trust mark requirements	Key players in the trust mark scheme
									complainant on other tools and remedies.  <u>Take-up rate</u>  Based on Ecommerce Europe's website, there are 10,000 online shops with national trustmarks issued by the national associations within Ecommerce Europe's network and thus which potentially qualify for the Ecommerce Europe Trustmark. <sup>157</sup>		

<sup>157</sup> <https://ecommercetrustmark.eu/for-merchants/>

Jurisdiction	List of trust marks* and associated trust mark associations *Selected e-commerce trust marks and key private/ sectoral trust marks only	Voluntary or Mandatory	Organisation(s) administering the trust mark: Government authority vs private sector organisation / for-profit vs non-profit	Formal approval by an accreditation scheme: Is there any auditing or certification by external parties?	Criteria for obtaining trust mark: What criteria must a business meet to gain the trust mark?	Funding: Private vs Public funding	Authority: Is the trust mark established by any law or regulation?	Monitoring body: Who is responsible for monitoring compliance with the trust mark scheme?	Value of scheme: What benefits do the trust mark give to both the consumer and the businesses?	Consequence of non-compliance with trust mark requirements	Key players in the trust mark scheme
									However, Ecommerce Europe does not state the actual number of traders that have been awarded its trustmark.		
	EU trust mark (EU and EU member states)  Note: The EU trust mark does not apply to all e-commerce activities – it only applies to 'trust services' as defined in Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on	Voluntary	European Parliament and the Council of the EU (" <b>Council</b> "), which are both supranational/ inter-governmental bodies.  The European Parliament is comprised of directly elected members of	Yes.  To obtain accreditation for the EU trust mark, the trust service provider must submit to its supervisory body a conformity assessment report from a conformity assessment body which is deemed	Trust service providers must comply with all applicable requirements under the eIDAS Regulation to obtain the EU trust mark. Amongst others, the eIDAS Regulation requires qualified trust service providers to: <sup>164</sup>  <ul style="list-style-type: none"> <li>Process personal data in accordance with Directive</li> </ul>	Public funding  As the EU trust mark scheme is implemented by the EC and EU member states, the scheme is supported by public funding.  However, note that EU member states	Yes.  The EU trust mark scheme is established under the eIDAS Regulation. Member states may also pass laws and regulations to give effect to	Designated supervisory bodies of EU member states  The supervisory bodies are responsible for verifying compliance with the eIDAS Regulation upon	<u>Traders</u>  Traders mainly obtain benefits in the form of increased consumer confidence and thus increased consumer transactions.  Traders may also find it easier to	Supervisory bodies may withdraw or suspend the qualified status/EU trust mark of the trust service provider.  Under Article 13 of the eIDAS Regulation,	<ul style="list-style-type: none"> <li>The EC and EU member states as the implementing bodies of the scheme.</li> <li>Designated supervisory bodies of each member state which determine the granting and withdrawal of the qualified status/EU trust mark.</li> </ul>

<sup>164</sup> The key obligations of a qualified trust service provider can be found in Article 24 of the eIDAS Regulation.



Jurisdiction	List of trust marks* and associated trust mark associations *Selected e-commerce trust marks and key private/ sectoral trust marks only	Voluntary or Mandatory	Organisation(s) administering the trust mark: Government authority vs private sector organisation / for-profit vs non-profit	Formal approval by an accreditation scheme: Is there any auditing or certification by external parties?	Criteria for obtaining trust mark: What criteria must a business meet to gain the trust mark?	Funding: Private vs Public funding	Authority: Is the trust mark established by any law or regulation?	Monitoring body: Who is responsible for monitoring compliance with the trust mark scheme?	Value of scheme: What benefits do the trust mark give to both the consumer and the businesses?	Consequence of non-compliance with trust mark requirements	Key players in the trust mark scheme
	electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC ("eIDAS Regulation") <sup>159</sup>		parliament, and the number of MEPs for each EU country is roughly proportionate to its population size. <sup>160</sup> The Council has no fixed members, but each country sends its minister responsible for the policy area discussed during each Council	competent to carry out assessment of the qualified trust service provider and trust service under Regulation (EC) No 765/2008. <sup>163</sup> These conformity assessment bodies are themselves required to be accredited by a national	95/46/EC (repealed by EU GDPR) <sup>165</sup> ; <ul style="list-style-type: none"> <li>take appropriate technical and organisational measures to manage risks to the security of trust services provided<sup>166</sup>;</li> </ul>	can charge trust service providers a fee for verifying their compliance with eIDAS and granting them a 'qualified status'. <sup>167</sup>	the eIDAS Regulation. <sup>168</sup>	application for the EU trust mark, and for reviewing the conformity assessment reports submitted by qualified trust service providers to the supervisory body every 24 months.	reach regional customers as Article 14 of the eIDAS Regulation sets down the internal market principle which has the effect of ensuring that a qualified trust service based on a qualified certificate issued in one member	trust service providers are liable for damage caused intentionally or negligently to any natural or legal person due to a failure to comply with its obligations under the	<ul style="list-style-type: none"> <li>Conformity assessment bodies for carrying out the actual accreditation process.</li> </ul>

<sup>159</sup> [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L\\_.2014.257.01.0073.01.ENG](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2014.257.01.0073.01.ENG). Under the eIDAS Regulation, a 'trust service' is defined as an electronic service normally provided for remuneration which consists of: (a) the creation, verification, and validation of electronic signatures, electronic seals or electronic time stamps, electronic registered delivery services and certificates related to those services, or (b) the creation, verification and validation of certificates for website authentication; or (c) the preservation of electronic signatures, seals or certificates related to those services. According to [https://ec.europa.eu/information\\_society/newsroom/image/document/2016-29/eu\\_trust\\_mark\\_qa\\_final\\_16645.pdf](https://ec.europa.eu/information_society/newsroom/image/document/2016-29/eu_trust_mark_qa_final_16645.pdf), the electronic signature, seal, time-stamp, registered delivery service or website authentication.

<sup>160</sup> [https://europa.eu/european-union/about-eu/institutions-bodies/european-parliament\\_en#composition](https://europa.eu/european-union/about-eu/institutions-bodies/european-parliament_en#composition)

<sup>163</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02008R0765-20210716#M1-6>

<sup>165</sup> Article 5

<sup>166</sup> Article 19(1)

<sup>167</sup> See for e.g. Malta <https://www.mca.org.mt/sites/default/files/pageattachments/MCA%20eIDAS%20Notification%20Form.pdf>

<sup>168</sup> See for e.g. Malta's

Jurisdiction	List of trust marks* and associated trust mark associations *Selected e-commerce trust marks and key private/ sectoral trust marks only	Voluntary or Mandatory	Organisation(s) administering the trust mark: Government authority vs private sector organisation / for-profit vs non-profit	Formal approval by an accreditation scheme: Is there any auditing or certification by external parties?	Criteria for obtaining trust mark: What criteria must a business meet to gain the trust mark?	Funding: Private vs Public funding	Authority: Is the trust mark established by any law or regulation?	Monitoring body: Who is responsible for monitoring compliance with the trust mark scheme?	Value of scheme: What benefits do the trust mark give to both the consumer and the businesses?	Consequence of non-compliance with trust mark requirements	Key players in the trust mark scheme
			meeting. <sup>161</sup> The European Parliament and Council are the main decision-making bodies of the EU. <sup>162</sup>  The eIDAS Regulation, which is the main regulation forming the basis of the EU trust mark scheme, was passed by the European Parliament and Council.	accreditation body of the member state.	<ul style="list-style-type: none"> <li>(for trust service providers that issue qualified certificates for electronic signatures, seals or for website authentication) verify, by appropriate means and in accordance with national law, the identity and specific attributes (if applicable) of the person receiving the qualified certificate, and keep an updated database</li> </ul>				<p>state will be recognised as a qualified trust service in all other member states.<sup>169</sup></p> <p><u>Consumers</u></p> <p>Consumers are assured that the qualified trust service providers and their trust services comply with the rules set out in the eIDAS Regulation.</p> <p>Consumers also enjoy greater</p>	eIDAS Regulation.	

<sup>161</sup> [https://europa.eu/european-union/about-eu/institutions-bodies/council-eu\\_en#composition](https://europa.eu/european-union/about-eu/institutions-bodies/council-eu_en#composition)

<sup>162</sup> [https://europa.eu/european-union/about-eu/institutions-bodies/council-eu\\_en](https://europa.eu/european-union/about-eu/institutions-bodies/council-eu_en)

<sup>169</sup> See also the response to 'Can anyone deny the validity of a qualified trust service issued by a qualified trust service provider solely on the grounds that it was issued by a trust service provider established in another Member State?' <https://digital-strategy.ec.europa.eu/en/news/questions-answers-trust-services-under-eidas>

Jurisdiction	List of trust marks* and associated trust mark associations *Selected e-commerce trust marks and key private/ sectoral trust marks only	Voluntary or Mandatory	Organisation(s) administering the trust mark: Government authority vs private sector organisation / for-profit vs non-profit	Formal approval by an accreditation scheme: Is there any auditing or certification by external parties?	Criteria for obtaining trust mark: What criteria must a business meet to gain the trust mark?	Funding: Private vs Public funding	Authority: Is the trust mark established by any law or regulation?	Monitoring body: Who is responsible for monitoring compliance with the trust mark scheme?	Value of scheme: What benefits do the trust mark give to both the consumer and the businesses?	Consequence of non-compliance with trust mark requirements	Key players in the trust mark scheme
					<p>of qualified certificates;</p> <ul style="list-style-type: none"> <li>employ persons subcontractors who possess the necessary expertise, reliability, experience, qualifications and training regarding security and personal data protection rules</li> <li>apply administrative and management procedures which correspond to European or international standards;</li> </ul>				<p>legal certainty should qualified trust service providers fail to comply with eIDAS Regulation. Under Article 13 of the eIDAS Regulation, while the burden of proving intention or negligence of a non-qualified trust service provider lies with the person claiming damage, the intention or negligence of a qualified trust service provider shall be presumed unless that qualified trust service provider</p>		

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					<ul style="list-style-type: none"> <li>with regard to the risk of liability for damages under the eIDAS Regulation, maintain sufficient financial resources and/or obtain appropriate liability insurance, in accordance with national law;</li> <li>inform potential consumers of precise terms and conditions regarding the use of its qualified trust service, including any limitations on its use;</li> <li>use trustworthy systems and products that are protected against modification and</li> </ul>				proves that the damage occurred without its intention or negligence.		

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					<p>ensure the technical security and reliability of the processes supported by them;</p> <ul style="list-style-type: none"> <li>take appropriate measures against forgery and theft of data;</li> <li>record and keep accessible for an appropriate period of time, relevant information concerning data issued and received; and</li> <li>have an up-to-date termination plan to ensure continuity of service in accordance with provisions verified</li> </ul>						

Jurisdiction	List of trust marks* and associated trust mark associations *Selected e-commerce trust marks and key private/ sectoral trust marks only	Voluntary or Mandatory	Organisation(s) administering the trust mark: Government authority vs private sector organisation / for-profit vs non-profit	Formal approval by an accreditation scheme: Is there any auditing or certification by external parties?	Criteria for obtaining trust mark: What criteria must a business meet to gain the trust mark?	Funding: Private vs Public funding	Authority: Is the trust mark established by any law or regulation?	Monitoring body: Who is responsible for monitoring compliance with the trust mark scheme?	Value of scheme: What benefits do the trust mark give to both the consumer and the businesses?	Consequence of non-compliance with trust mark requirements	Key players in the trust mark scheme
					by the supervisory body.						
France	FEVAD label / trust mark (La Fédération du e-commerce et de la vente à distance (FEVAD))	Voluntary	FEVAD (non-profit association comprised of e-commerce and distance selling players and business that provide services to e-commerce companies) <sup>170</sup>	No.  There is no indication that the FEVAD Quality Charter is formally endorsed by any French public authority. It also appears from the FEVAD website that membership applications will be processed internally by FEVAD's board of directors which is comprised of managers of e-	Applicants must be members of FEVAD and comply with the FEVAD Quality Charter to be allowed to display the FEVAD trust mark.  The FEVAD Quality Charter requires FEVAD members to undertake the following 5 key commitments: <sup>174</sup> <ul style="list-style-type: none"> <li>• Be identifiable</li> <li>• Be loyal</li> <li>• Ensure secure payments</li> </ul>	Private funding.  There is no indication that FEVAD receives funding from any public authorities.  While it is not expressly stated on FEVAD's website, members are required to pay a membership fee for	No.  However, FEVAD's status as an ADR Entity is endorsed by the French authorities in accordance with French and EU laws.	FEVAD.	<u>Traders</u>  Traders mainly obtain benefits in the form of increased consumer confidence and thus increased consumer transactions.  In addition, as the right to use the FEVAD trust mark is tied to a FEVAD membership, traders also enjoy	FEVAD has indicated that any non-FEVAD member that displays the FEVAD trust mark will face penal sanctions, but there is no further explanation on what kind of penal sanctions will be imposed and how.	FEVAD for implementing and overseeing the FEVAD trust mark scheme.

<sup>170</sup> <https://www.fevad.com/structure-et-organisation/>

<sup>174</sup> [https://www.fevad.com/wp-content/uploads/2019/10/Code-pro\\_charte\\_qualite%CC%81-vf4.pdf](https://www.fevad.com/wp-content/uploads/2019/10/Code-pro_charte_qualite%CC%81-vf4.pdf) at page 2

Jurisdiction	List of trust marks* and associated trust mark associations *Selected e-commerce trust marks and key private/ sectoral trust marks only	Voluntary or Mandatory	Organisation(s) administering the trust mark: Government authority vs private sector organisation / for-profit vs non-profit	Formal approval by an accreditation scheme: Is there any auditing or certification by external parties?	Criteria for obtaining trust mark: What criteria must a business meet to gain the trust mark?	Funding: Private vs Public funding	Authority: Is the trust mark established by any law or regulation?	Monitoring body: Who is responsible for monitoring compliance with the trust mark scheme?	Value of scheme: What benefits do the trust mark give to both the consumer and the businesses?	Consequence of non-compliance with trust mark requirements	Key players in the trust mark scheme
				<p>commerce companies.<sup>171</sup></p> <p>However:</p> <ul style="list-style-type: none"> <li>FEVAD does from time to time become signatory to other charters that are promoted or endorsed by French public authorities<sup>172</sup></li> <li>FEVAD provides a mediation</li> </ul>	<ul style="list-style-type: none"> <li>Have reachable and accessible customer service</li> <li>Inform consumers of the existence of one or more competent mediation mechanisms in the event of consumer disputes.</li> </ul> <p>Specific commitments include, amongst others:</p>	exclusive access to membership perks which includes the permission to display the FEVAD trust mark.			<p>membership perks such as<sup>178</sup>:</p> <ul style="list-style-type: none"> <li>Right to use FEVAD's mediation services; and</li> <li>Access to personalized assistance by FEVAD in relation to legislative changes, environmental obligations, logistics or</li> </ul>	For non-compliance with the Quality Charter, FEVAD may issue a warning to the non-compliant trader, reprimand the trader, require a temporary logo removal, or exclusion of the trader from FEVAD. <sup>180</sup>	

<sup>171</sup> <https://www.fevad.com/programme-membres-associes/>

<sup>172</sup> E.g. The Charte sur les jouets 2020, which is a voluntary commitment charter promulgated by France's Ministry for the Economy and Finance. See: <https://www.economie.gouv.fr/signature-charte-representation-mixte-jouets> and <https://www.fevad.com/charte-jouets/>

<sup>178</sup> <https://www.fevad.com/rejoignez-fevad-profitez-de-lensemble-avantages-reserves-a-nos-adherents/>

<sup>180</sup> Page 19 of the Quality Charter: [https://www.fevad.com/wp-content/uploads/2019/10/Code-pro\\_charte\\_qualite%CC%81-vf4.pdf](https://www.fevad.com/wp-content/uploads/2019/10/Code-pro_charte_qualite%CC%81-vf4.pdf)



Jurisdiction	List of trust marks* and associated trust mark associations *Selected e-commerce trust marks and key private/ sectoral trust marks only	Voluntary or Mandatory	Organisation(s) administering the trust mark: Government authority vs private sector organisation / for-profit vs non-profit	Formal approval by an accreditation scheme: Is there any auditing or certification by external parties?	Criteria for obtaining trust mark: What criteria must a business meet to gain the trust mark?	Funding: Private vs Public funding	Authority: Is the trust mark established by any law or regulation?	Monitoring body: Who is responsible for monitoring compliance with the trust mark scheme?	Value of scheme: What benefits do the trust mark give to both the consumer and the businesses?	Consequence of non-compliance with trust mark requirements	Key players in the trust mark scheme
				system for resolution of disputes between consumers and FEVAD members, which is accessible by but not compulsory for FEVAD members. FEVAD's mediation arm is an ADR Entity recognized by the French authorities under Article L. 612-1 of the French Consumer	<ul style="list-style-type: none"> <li>Ensuring that information about the company, its general sales conditions, essential characteristics (such as tax-inclusive prices) of products and services, and withdrawals and guarantees are displayed to consumers<sup>175</sup>;</li> <li>Process personal data in accordance with the GDPR;</li> <li>Take into account impact of its</li> </ul>				<p>payment solutions etc..</p> <p><u>Consumers</u></p> <p>Consumers are assured that FEVAD members have undertaken to comply with FEVAD's Quality Charter.</p> <p>FEVAD claims that a survey carried out by Médiamétrie at 54% of e-buyers consider a FEVAD membership to be a criterion for choosing which</p>		

<sup>175</sup> Pages 7 to 8 of Quality Charter: [https://www.fevad.com/wp-content/uploads/2019/10/Code-pro\\_charte\\_qualite%CC%81-vf4.pdf](https://www.fevad.com/wp-content/uploads/2019/10/Code-pro_charte_qualite%CC%81-vf4.pdf)

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				Code, in accordance with Regulation (EU) No 524/2013 and Directive 2013/11/EU (see S/N 1 above). <sup>173</sup>	<p>operations on the environment;</p> <ul style="list-style-type: none"> <li>takes all precautions to ensure secure payments, which usually means using an address that begins with "https: //" and the presence of an icon representing a padlock in browser window;</li> <li>respect laws which allow consumers to withdraw orders within 14 days.</li> </ul> <p>Note:</p>				merchant site they purchase from. <sup>179</sup>		

<sup>173</sup> <https://ec.europa.eu/consumers/odr/main/?event=main.adr.show2>

<sup>179</sup> <https://www.fevad.com/un-label-au-service-de-la-confiance/>

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					<ul style="list-style-type: none"> <li>Although the FEVAD trust mark is intended for B2C businesses, B2B businesses may also display the FEVAD trust mark to signify compliance with the Quality Charter.<sup>176</sup></li> <li>New members of FEVAD may only use the FEVAD trust mark after the expiry of a probationary period of one year.<sup>177</sup></li> </ul>						

<sup>176</sup> [https://www.fevad.com/wp-content/uploads/2018/03/Nouveau\\_logo\\_charte\\_qualite\\_V031117-1.pdf](https://www.fevad.com/wp-content/uploads/2018/03/Nouveau_logo_charte_qualite_V031117-1.pdf)

<sup>177</sup> *Ibid*, read with [https://ec.europa.eu/info/sites/default/files/trust\\_mark\\_report\\_2013\\_en.pdf](https://ec.europa.eu/info/sites/default/files/trust_mark_report_2013_en.pdf)

Jurisdiction	List of trust marks* and associated trust mark associations *Selected e-commerce trust marks and key private/ sectoral trust marks only	Voluntary or Mandatory	Organisation(s) administering the trust mark: Government authority vs private sector organisation / for-profit vs non-profit	Formal approval by an accreditation scheme: Is there any auditing or certification by external parties?	Criteria for obtaining trust mark: What criteria must a business meet to gain the trust mark?	Funding: Private vs Public funding	Authority: Is the trust mark established by any law or regulation?	Monitoring body: Who is responsible for monitoring compliance with the trust mark scheme?	Value of scheme: What benefits do the trust mark give to both the consumer and the businesses?	Consequence of non-compliance with trust mark requirements	Key players in the trust mark scheme
Spain	Confianza Online trust mark (Spanish Association of the Digital Economy (i.e. 'Adigital'); and Association for the Self-Regulation of Commercial Communications (i.e. Autocontrol))	Voluntary	Adigital and Autocontrol  Adigital is a non-profit digital economy association comprised of companies and other business associations. <sup>181</sup>  Autocontrol is a non-profit association and the independent self-regulatory body of the advertising industry in Spain. Autocontrol is comprised of	Yes,  Confianza Online's COE has been endorsed by: <ul style="list-style-type: none"><li>The Spanish Data Protection Agency ("AEPD") - registered the COE was last registered as a Type Code by the APED in 2009.</li><li>The COE last obtained the 'Online Trust Public</li></ul>	The COE requires companies to undertake to accept commitments covering the following 4 key areas: <ul style="list-style-type: none"><li>Digital advertising</li><li>e-commerce with consumers</li><li>privacy and protection of personal info</li><li>protection of minors</li></ul> Amongst others, the COE requires companies to: <sup>185</sup> <ul style="list-style-type: none"><li>Comply with the Autocontrol Code</li></ul>	Private and public funding.  To become a member of Confianza Online, the applicant must pay a membership fee ranging between 325 to 4,500 Euros, depending on its turnover, and an additional fee starting from 80 Euros for the right to display the Confianza	No.  However, as explained, Confianza Online's COE has been endorsed by public authorities such as the AEPD.	Confianza Online.	<u>Traders</u>  Traders mainly obtain benefits in the form of increased consumer confidence and thus increased consumer transactions.  Given that the COE has also been registered as a type code by the AEPD, the traders may also be assured of their compliance with data protection	<ul style="list-style-type: none"><li>If the non-compliance forms the subject of a mediation or arbitration in accordance with the COE, the mediated agreement or decision will be published on Confianza Online's website. Such decisions could include details of the</li></ul>	<ul style="list-style-type: none"><li>Confianza Online, for implementing and overseeing the Confianza Online trust mark scheme.</li><li>Autocontrol, for designing the code of conduct for advertising which is incorporated into the COE.</li></ul>

<sup>181</sup> <https://ecommerce-europe.eu/research-figure/spain/> and <https://www.adigital.org/quienes-somos/>

<sup>185</sup> <https://www.filipinan-market.com/photos/Ethical%20Code%20Confianza%20Online.pdf>

Jurisdiction	List of trust marks* and associated trust mark associations *Selected e-commerce trust marks and key private/ sectoral trust marks only	Voluntary or Mandatory	Organisation(s) administering the trust mark: Government authority vs private sector organisation / for-profit vs non-profit	Formal approval by an accreditation scheme: Is there any auditing or certification by external parties?	Criteria for obtaining trust mark: What criteria must a business meet to gain the trust mark?	Funding: Private vs Public funding	Authority: Is the trust mark established by any law or regulation?	Monitoring body: Who is responsible for monitoring compliance with the trust mark scheme?	Value of scheme: What benefits do the trust mark give to both the consumer and the businesses?	Consequence of non-compliance with trust mark requirements	Key players in the trust mark scheme
			advertisers, advertising agencies, the media and professional associations. <sup>182</sup>	Distinction' from the Spanish Agency for Consumption, Food Safety and Nutrition ("AECOSAN") in 2011.  • <b>The COE was also approved</b> by the Consejo de Consumidores y Usuarios <sup>183</sup> (i.e 'State Council of Consumers and Users') in 2005 and by the Consejo de	of Conduct for Advertising;  • Ensure compliance with existing legislation when contracting goods or services with through electronic means;  • provide clear, comprehensible, and unambiguous information about the steps for purchasing goods or services it offers prior to initiating the procedure of purchase, including	Online trust mark.  An earlier report also suggested that the Spanish Ministry of Industry, Trade and Tourism also provided funding as an official promoter of the Confianza Online trust mark, <sup>187</sup> but there is currently no indication that the Ministry is			legislations if they are assessed to be compliant with the COE.  <u>Consumers</u>  Consumers are assured that Confianza Online trust mark bearers have undertaken and are assessed to comply with the COE.  In addition, as the COE requires members to submit to Confianza	trader's non-compliance.  • A warning issued by Confianza Online;  • Suspension of use of the Confianza Online trust mark for 1 to 5 years;  • Suspension of Confianza Online membership rights for 1	

<sup>182</sup> <https://www.autocontrol.es/>

<sup>183</sup> <http://www.consumo-ccu.es/>

<sup>187</sup> [https://www.europarl.europa.eu/RegData/etudes/etudes/join/2012/492433/IPOL-IMCO\\_ET\(2012\)492433\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/etudes/join/2012/492433/IPOL-IMCO_ET(2012)492433_EN.pdf)

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				Consumo de la Comunidad de Madrid (i.e. 'Consumption Council of the Community of Madrid') in 2011. The Consejo de Consumo is an information, consultation and advisory body for consumer protection matters regulated under Spanish law, and the council members include members of municipal and regional	by informing the consumer of the full price of goods or services, period of validity of offers, right of withdrawal, terms and conditions of contract and warranties etc; <ul style="list-style-type: none"><li>provide consumers with simple and safe payment methods, and inform consumers of the level of protection applied to them prior to them entering financial data;</li><li>abide by existing regulations on personal data protection matters;</li></ul>	still an official promoter of the trust mark scheme.			Online's dispute resolution mechanisms, consumers have the additional assurance that their complaints or claims will be heard. If a mediated resolution is not achieved by Confianza Online, consumers can fall back on a legal remedy as their claims will be further submitted to arbitration bodies which decisions have the same effect as a court decision.	to 5 years; and/or <ul style="list-style-type: none"><li>Expulsion from Confianza Online.</li></ul>	

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				administratiton. 184	<ul style="list-style-type: none"> <li>account for the age, knowledge and maturity of audient when handling data of or communicating with minors;</li> <li>provide, on its website, the option for consumers to submit a complaints or claim;</li> <li>be subject to Confianza Online's extrajudicial dispute resolution system and agree to abide by and strictly and immediately</li> </ul>						

<sup>184</sup> <https://www.comunidad.madrid/servicios/consumo/consejo-consumo>



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					<p>comply with the content of mediated agreements made by Adigital's Mediation Committee and Autocontrol's Advertising Jury; and</p> <ul style="list-style-type: none"> <li>if a mediated agreement is not reached, and the claimant makes a prior request, the claim will be submitted to either the National Consumer Arbitration Council or the Regional Consumer Arbitration Council, and the decisions of both have the</li> </ul>						

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					same effect as a court decision. <sup>186</sup>						
Denmark	E-Maerket trust mark (e-Maerket)	Voluntary	e-Maerket (a non-profit organization co-founded by several non-governmental associations including the orbrugerrådet Tænk (i.e. Danish Consumer Council), HK Denmark (trade union) and The Confederation of Danish Industry, a business association representing	No.  There is no indication that the EM Guidelines are formally endorsed by any Danish authority. It also appears from the e-Maerket website that certification of compliance with the EM Guidelines is conducted by e-Maerket's in-house lawyers.	To obtain the e-Maerket trust mark, traders must comply with the EM Guidelines which focuses on the following: <sup>190</sup> <ul style="list-style-type: none"> <li>• Providing clear information about the website;</li> <li>• Ensuring easy access to personal data policy;</li> <li>• Ensuring transparency in purchase process;</li> </ul>	Private  E-Maerket charges a membership fee starting from DKK 7,549 per annum (also payable on a monthly basis) depending on the number of employees the applicant employs.	The trustmark has been approved by the trustmark monitoring board of the German publicprivate partnership organisation Initiative D21 (see Section 3.5.2). Trusted Shops itself is involved in this organisation,	e-Maerket.	<u>Traders</u>  Traders mainly obtain benefits in the form of increased consumer confidence and thus increased consumer transactions.  In addition, as the right to use the e-Maerket trust mark is tied to the e-Maerket membership,	The non-compliant trader may be: <sup>197</sup> <ul style="list-style-type: none"> <li>• Instructed by e-Maerket to change behavior;</li> <li>• Suspended from using the e-Maerket trust mark for up to</li> </ul>	e-Maerket, for implementing and overseeing the e-Maerket trust market scheme

<sup>186</sup> See paragraph 2.3 of [https://ec.europa.eu/info/sites/default/files/national-consumer-organisations\\_es\\_listing\\_0.pdf](https://ec.europa.eu/info/sites/default/files/national-consumer-organisations_es_listing_0.pdf)

<sup>190</sup> <https://www.emaerket.dk/certificeringsproces#indhold>

<sup>197</sup> See paragraph 8 of [https://assets.ctfassets.net/s7dq6lu0ka7w/DYmI8NueSWHuY83eFVFk2/6a8314652496e02080c32961448cdfe1/e-maerkets\\_retningslinjer.pdf?](https://assets.ctfassets.net/s7dq6lu0ka7w/DYmI8NueSWHuY83eFVFk2/6a8314652496e02080c32961448cdfe1/e-maerkets_retningslinjer.pdf?)

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			<p>Danish companies<sup>188</sup>.</p> <p>Note: It has been reported that e-Maerket was initially set up by the Danish government.<sup>189</sup></p>		<ul style="list-style-type: none"> <li>• Providing clear information on delivery, cancellation and complaints;</li> <li>• Providing quick responses to questions;</li> <li>• Compliance with regulatory requirements;</li> <li>• Receiving regular inspections and guidance from e-Maerket; and</li> </ul>	<p>Note: It has been reported that e-Maerket was supported by public funding in the early stages.<sup>192</sup></p>	<p>along with other stakeholders and representatives of the German government. However, such approval is not a formal requirement for trustmarks to operate, and the Initiative D21 is not an enforcement body</p>		<p>traders also enjoy membership perks such as <sup>193</sup>:</p> <ul style="list-style-type: none"> <li>• Unlimited advice from e-Maerket's e-commerce specialist lawyers;</li> <li>• Member-exclusive legal and marketing tips; and</li> <li>• Annual service check and ongoing</li> </ul>	<p>six months; or</p> <ul style="list-style-type: none"> <li>• Deprived of the right to use the e-Maerket trust mark.</li> </ul>	

<sup>188</sup> <https://www.emaerket.dk/stifterkreds>

<sup>189</sup> See paragraph 3.1.2.3 of [https://www.europarl.europa.eu/cmsdata/59814/att\\_20130416ATT64613-6395490763952948749.pdf](https://www.europarl.europa.eu/cmsdata/59814/att_20130416ATT64613-6395490763952948749.pdf)

<sup>192</sup> See paragraph 3.4.2 of [https://www.europarl.europa.eu/RegData/etudes/etudes/join/2012/492433/IPOL-IMCO\\_ET\(2012\)492433\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/etudes/join/2012/492433/IPOL-IMCO_ET(2012)492433_EN.pdf)

<sup>193</sup> <https://www.emaerket.dk/derfor-emaerket>

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					<ul style="list-style-type: none"> <li>Receiving sanctions in the event of non-compliance.</li> </ul> <p>Amongst others, the EM Guidelines require traders to:<sup>191</sup></p> <ul style="list-style-type: none"> <li>Provide information on the the owner of the website and its contact information in a clear and accessible manner;</li> <li>Provide information on the website's personal data policies in a clear and accessible manner, and</li> </ul>				<p>inspection by an e-Maerket lawyer.</p> <p><u>Consumers</u></p> <p>Consumers are assured that E-Maerket trust mark bearers have been assessed to comply with the EM Guidelines.</p> <p>Based on an e-Maerket survey conducted in 2019:<sup>194</sup></p> <ul style="list-style-type: none"> <li>More than 78% of online shopping</li> </ul>		

<sup>191</sup> [https://assets.ctfassets.net/s7dq6lu0ka7w/DYmI8NueSWHuY83eFVFk2/6a8314652496e02080c32961448cdf1/e-markets\\_retningslinjer.pdf?](https://assets.ctfassets.net/s7dq6lu0ka7w/DYmI8NueSWHuY83eFVFk2/6a8314652496e02080c32961448cdf1/e-markets_retningslinjer.pdf?)

<sup>194</sup> <https://www.emaerket.dk/derfor-emaerket>

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					<p>requiring the customer to provide active consent to the personal data policy;</p> <ul style="list-style-type: none"> <li>• Provide clear information on the key product/ service properties, such as total price;</li> <li>• Provide clear information on delivery, cancellation and complaint, including expected delivery time, customer's right of withdrawal and exceptions, and procedure for cancellation and complaint;</li> </ul>				<p>Danes know about e-Maerket;</p> <ul style="list-style-type: none"> <li>• Almost 39% would opt out of a webshop that is not e-Maerket certified;</li> <li>• 62% feel more secure in an e-Maerket certified webshop; and</li> <li>• 50% of online shopping Danes believe that the e-Maerket is the brand that protects them best when</li> </ul>		

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					<ul style="list-style-type: none"> <li>Comply with any decisions by the Consumer Complaint Board or private complaints boards approved by the Økonomi- og Erhvervsministeren (i.e. Ministry of industry, Business and Financial Affairs)</li> </ul>				<p>they shop online.</p> <p>In addition, e-Maerket provides a buyer's protection of up to DKK 10,000 per purchase of a physical item at an e-Maerket certified shop,<sup>195</sup> and an online dispute resolution platform which buyers of e-Market certified shops can use for free.<sup>196</sup></p>		
Hong Kong (also applies to Macau)	Hong Kong Trust Mark (HKFEC)	Voluntary	HKFEC (non-profit association consisting of	No.	Traders must undergo a preliminary examination (and full	Private funding.	No.	HKFEC.	<u>Traders</u>	Traders found not complaint with the	HKFEC as the implementing organization of the scheme.

<sup>195</sup> <https://www.emaerket.dk/koeberbeskyttelse>

<sup>196</sup> <https://www.emaerket.dk/gratis-sagsbehandling>

Jurisdiction	List of trust marks* and associated trust mark associations *Selected e-commerce trust marks and key private/ sectoral trust marks only	Voluntary or Mandatory	Organisation(s) administering the trust mark: Government authority vs private sector organisation / for-profit vs non-profit	Formal approval by an accreditation scheme: Is there any auditing or certification by external parties?	Criteria for obtaining trust mark: What criteria must a business meet to gain the trust mark?	Funding: Private vs Public funding	Authority: Is the trust mark established by any law or regulation?	Monitoring body: Who is responsible for monitoring compliance with the trust mark scheme?	Value of scheme: What benefits do the trust mark give to both the consumer and the businesses?	Consequence of non-compliance with trust mark requirements	Key players in the trust mark scheme
and Mainland China)			individuals and for-profit companies) <sup>198</sup>	<p>There is no indication by the HKFEC that the certification for compliance with HKCOC will involve any third parties.</p> <p>That said, the HKFEC had announced on 24 May 2019 that it would partner with Dowsure Technologies Co., Ltd to integrate blockchain technology and customer insurance to the</p>	<p>examination if necessary) by the HKFEC to certify its compliance with the HKCOC. A copy of the HKCOC is set out in <b>Annex B</b>.<sup>200</sup></p> <p>Amongst others, the HKCOC requires traders to:</p> <ul style="list-style-type: none"> <li>• provide transparent information about itself;</li> <li>• provide clear, complete and accurate product descriptions;</li> </ul>	<p>While the HKFEC does not explicitly state the source of funding for the Hong Kong Trust Mark scheme, applicants pay a registration fee of HKD 3,000 to obtain yearly certification under the scheme.<sup>201</sup></p> <p>The HKFEC also accepts various paid membership</p>	<p>While the HKCOC includes an obligation to comply with legislations such as the Personal Data (Privacy) Ordinance, the HKCOC does not have the force of law and has not been formally endorsed by any public authorities.</p>	<p>The Hong Kong Trust Mark is valid for one year. Therefore, re-examination for compliance with the HKCOC by the HKFEC is required every year.</p>	<p>Traders mainly obtain benefits in the form of increased consumer confidence and thus increased consumer transactions.</p> <p>Traders may also find it easier to reach non-Hong Kong based customers as the HKFEC also issues trust marks for Macau and Mainland China. These trust marks are also issued</p>	<p>HKCOC will not be allowed to display the Hong Kong Trust Mark.</p>	

<sup>198</sup> <https://hkfec.org/about-us/>

<sup>200</sup> Retrieved from: <https://hkfec.org/hk-trust-mark/code-of-practice/>

<sup>201</sup> <https://hkfec.org/hk-trust-mark/how-to-apply/>



Jurisdiction	List of trust marks* and associated trust mark associations *Selected e-commerce trust marks and key private/ sectoral trust marks only	Voluntary or Mandatory	Organisation(s) administering the trust mark: Government authority vs private sector organisation / for-profit vs non-profit	Formal approval by an accreditation scheme: Is there any auditing or certification by external parties?	Criteria for obtaining trust mark: What criteria must a business meet to gain the trust mark?	Funding: Private vs Public funding	Authority: Is the trust mark established by any law or regulation?	Monitoring body: Who is responsible for monitoring compliance with the trust mark scheme?	Value of scheme: What benefits do the trust mark give to both the consumer and the businesses?	Consequence of non-compliance with trust mark requirements	Key players in the trust mark scheme
			Hong Kong Trust Mark Scheme. <sup>199</sup> It was explained that information including “product origin, ordering, logistics arrangement, product receipt, complaints and claims, can be checked by sellers and consumers with a dedicated key” with the utilization of the blockchain technology. As the major concern to be addressed is counterfeit products, HKFEC	<ul style="list-style-type: none"><li>be clear and transparent on prices;</li><li>have clear returns processes and prompt reimbursement procedures;</li><li>protect personal data according to the Personal Data (Privacy) Ordinance (i.e. the main legislation in Hong Kong for protection of personal data);</li><li>use secure payment methods</li></ul>	subscriptions, including corporate and sponsorship memberships which come with voting rights. There is no indication that the HKFEC receives any public funding for the Hong Kong Trust Mark scheme (although HKFEC does draw on government funds for its other projects). <sup>202</sup>			based on compliance with the HKCOC.  <u>Consumers</u>  Consumers are assured that the Hong Kong Trust Mark bearers comply with the rules set out in the HKCOC.  <u>Take-up rate</u>  Based on HKFEC’s website, there were over 1,000 online merchants using the Hong Kong			

<sup>199</sup> <https://hkfec.org/past-events/upgrade-ecommerce-trust-to-next-level-by-blockchain-and-insurtech/>

<sup>202</sup> See e.g. <https://hkfec.org/events/launch-of-the-trade-and-industrial-organisation-support-fund-tsf-and-enhancements-to-the-emf-fund/>

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				plans to recruit brand retailers to join the scheme and insure all purchases from those particular brands. However, there is no further public information on how the blockchain technology or partnership is working out in practice.	and delivery systems; and <ul style="list-style-type: none"><li>provide information on alternative/online dispute resolution services.</li></ul>				Trustmark in 2019. <sup>203</sup>		
Global	TrustedSite trustmark (TrustedSite, LLC)  Note: TrustedSite is the successor to the	Voluntary	TrustedSite, LLC (for-profit company based on the United States) <sup>204</sup>	Yes, for some certifications.  Third-party checks or certifications are used for the	<b>Certified Secure:</b> The trader must sign up for a TrustedSite account and pass an initial security scan (and later	Private funding.  TrustedSite LLC is a for-profit company and the	No.	TrustedSite LLC.	<u>Traders</u>  Traders mainly obtain benefits in the form of increased	No consequences apart from the traders/ website being ineligible to	<ul style="list-style-type: none"> <li>TrustedSite, LLC</li> <li>TrustedSite's partners, such as ResellerRatings</li> </ul>

<sup>203</sup> <https://hkfec.org/past-events/upgrade-ecommerce-trust-to-next-level-by-blockchain-and-insurtech/>

<sup>204</sup> <https://www.trustedsite.com/company/>

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	McAfee SECURE™ certification.			<p>following certifications/ trustmark:</p> <ul style="list-style-type: none"> <li>• <b>Certified Secure:</b> The website must not be on Google's blacklist to qualify for the trustmark</li> <li>• <b>Issue-Free Orders:</b> Feedback from consumers demonstrating lack of issues is required for traders to</li> </ul>	<p>weekly security scans) which indicates that:<sup>205</sup></p> <ul style="list-style-type: none"> <li>• No malware or malicious links are found;</li> <li>• The site is not Google blacklisted;</li> <li>• The site is not a phishing site;</li> <li>• The site is not an attack site; and</li> <li>• The site is not a compromised site.</li> </ul> <p><b>Verified Business:</b><sup>206</sup> The trader must sign</p>	programs are paid services provided to TrustedSite LLC's customers.			<p>consumer confidence and thus increased consumer transactions.</p> <p>TrustedSite claims that websites that use their trustmarks see conversion increases as high as 30%.<sup>213</sup></p> <p><u>Consumer</u></p> <p>Consumers are assured that the TrustedSite trustmark bearers comply with the</p>	display the trustmarks.	<ul style="list-style-type: none"> <li>• Consumers whose feedback have a direct bearing on whether a trader is eligible for the issue-free orders trustmark</li> </ul>

<sup>205</sup> <https://blog.trustedsite.com/2020/08/04/how-to-earn-the-trustedsite-certified-secure-certification-and-alleviate-ecommerce-security-concerns/>

<sup>206</sup> <https://blog.trustedsite.com/2020/08/11/how-to-earn-the-trustedsite-verified-business-certification-and-show-your-site-is-a-reliable-seller/>

<sup>213</sup> <https://www.trustedsite.com/certification/?from=home>

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				<p>obtain this trustmark.</p> <ul style="list-style-type: none"> <li><b>Trusted Reviews:</b> The trustmark is obtained by importing consumer reviews of the site from a third-party reviews platform (ResellerRatings) which does not permit sellers to remove any reviews submitted to it, hence ensuring the</li> </ul>	<p>up for a TrustedSite account and verify at least two contact details to obtain the trustmark. The verification is done by responding to TrustedSite using the contact details are sought to be verified. For instance, to verify an email address, the trader signs in to his TrustedSite account and provide TrustedSite with the email address to be publicly displayed, and TrustedSite will send a verification request to that email address. The trader has to click on the link in the email</p>				<p>relevant certification requirements</p> <p>TrustedSite states that:<sup>214</sup></p> <ul style="list-style-type: none"> <li>When first arriving at an unfamiliar site, 34% of consumers have concerns about phishing and 40% have concerns about viruses and malware; and</li> </ul>		

<sup>214</sup> <https://www.trustedsite.com/certification/certified-secure>

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				<p>authenticity of the site ratings.</p> <ul style="list-style-type: none"> <li><b>Data Protection:</b> This trustmark is obtained by obtaining a SSL certificate which is issued by a third-party certification authority.</li> </ul>	<p>address to complete the verification process.</p> <p><b>Issue-Free Orders:</b><sup>207</sup> The trader must sign up for a TrustedSite Pro account, and then install a conversion tracking code and enable a method for customers on its website to opt-in to the Shopper Identity Protection and Issue-Free Orders service.</p> <p>After making a purchase from a site with the Issue-Free Orders certification, customers who have opted in will receive an</p>				<ul style="list-style-type: none"> <li>23% of consumers have abandoned a purchase because of concerns about viruses and malware.</li> </ul> <p>TrustedSite also in some cases provide consumers financial incentives for participating in the certification process: e.g. the shopper identity protection certification program</p>		

<sup>207</sup> <https://blog.trustedsite.com/2020/08/17/how-to-earn-the-trustedsite-issue-free-orders-certification-and-show-your-business-consistently-delivers-outstanding-service/>

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					<p>email asking them to provide feedback about their experience. After at least 10 conversions have been tracked, the site will be able to display the issue-free orders trustmark if 95% or more consumers do not report an issue.</p> <p><b>Shopper Identity Protection:</b><sup>208</sup> The trader must up for a TrustedSite Pro and install TrustedSite's conversion tracking code on the relevant website. Consumers making purchases on the website will receive a prompt to opt in for \$100,000 covergae in</p>				effectively provides a buyer's insurance of up to \$100,000 for a consumer who purchases from the website holding this trustmark.		

<sup>208</sup> <https://support.trustedsite.com/hc/en-us/articles/208242116-Earn-the-Shopper-Identity-Protection-certification>

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					<p>the event of identity theft within 90 days of making that purchase. There are so specific measures the trader must take as this trustmark is based on insuring rather than preventing the consumer's potential losses.</p> <p><b>Spam-Free:</b><sup>209</sup> The trader must sign-up for a TrustedSite Pro account, and enable site monitoring by using 'Inbox Preview' – a free browser extension. When a consumer enters an email address on a site, Inbox Preview will</p>						

<sup>209</sup> <https://blog.trustedsite.com/2020/09/01/how-to-earn-the-trustedsite-spam-free-certification-and-collect-more-email-registrations-on-your-site/>

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					<p>monitor the emails it receives from that sender. If Inbox Preview does not detect any spam or suspicious activity, it will give the site a low-risk rating. A website with a low-risk rating can display the Spam-Free trustmark.</p> <p><b>Trusted Reviews:</b><sup>210</sup> The trader must sign up for aTrustedSite Pro account and a ResellerRatings account. Reseller Ratings is online ratings site where consumers submit ratings and reviews of online retailers. The</p>						

<sup>210</sup> <https://blog.trustedsite.com/2020/09/09/how-to-earn-the-trustedsite-trusted-reviews-certification-and-show-that-people-love-your-business/>



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					<p>trader can display the trusted reviews trustmark once it enables the reviews from its TrustedSite account portal.</p> <p><b>Data Protection:</b><sup>211</sup> Traders must sign up for a TrustedSite Pro account and have a valid (Secure Socket Layers) SSL certificate installed on the relevant website. Pages that display the data protection trustmarks must load over HTTPS and be encrypted.</p>						

<sup>211</sup> <https://blog.trustedsite.com/2020/09/11/how-to-earn-the-trustedsite-data-protection-certification-and-show-customers-their-personal-information-is-secure-on-your-site/>

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					<b>Secure Cloud:</b> <sup>212</sup> Traders must purchase a TrustedSite Security plan, pass a weekly security scan, and maintain a risk score less than 600 to obtain this trustmark. TrustedSite uses a proprietary algorithm to measure the quantity, severity, time to remediate and likelihood of exploit of all vulnerabilities of the cloud infrastructure to determine the risk score.						
Regional	<a href="#">eConfianza</a> is a regional trust mark scheme in Latin	Voluntary	eConfianza is run by the eCommerce Institute, which is a	Insufficient information to determine.	Insufficient information to determine based on their <u>website</u> and other	eConfianza seems to be privately	Insufficient information to determine based on their	Insufficient information to determine.	The scheme has resulted in the adoption of best	Insufficient information to determine, but	<ul style="list-style-type: none"> <li>Consumers</li> <li>E-commerce marketplaces:</li> </ul>

<sup>212</sup> <https://www.trustedsite.com/certification/secure-cloud>

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	America. It is recognized by the World Trustmark Alliance, which certifies trademarks worldwide. ( <a href="#">Source</a> )		regional non-profit organisation in Latin America that aims to develop and support the development of the digital economy in Latin America. It is advised by international experts in the field and its network includes national e-commerce associations from various Latin American countries.		sources online. There is only the organisation's email available.	funded, given that it is run by eCommerce Institute, which is a regional non-profit organisation. Unable to find further information on this issue.	<a href="#">website</a> and online sources, but it is unlikely that it is established under any law or regulation.		practices regarding security, clarity of information, visibility of methods of payment, and dispute resolution. ( <a href="#">Source</a> )	it is likely that non-compliance will result in the trust mark being revoked.	<ul style="list-style-type: none"> <li>○ Largest platform as of 19/07/2021: <b>Mercado Libre</b> (668 million monthly visits) (<a href="#">Source</a>)</li> <li>• E-commerce retailers</li> <li>• Trade associations</li> <li>• E-commerce associations: <ul style="list-style-type: none"> <li>○ <a href="#">eCommerce Institute</a> (regional): As described, it is a regional non-profit organisation that supports the development of the digital economy in Latin America.</li> <li>○ <b>Camara Brasileira de Comercio Eletronico</b></li> </ul> </li> </ul>
Brazil	Camara Brasileira de Comercio Eletronico ( <a href="#">Camara-e.net</a> )	Voluntary	The trust mark scheme is run by Câmara Brasileira de Comércio Eletrônico (Brazilian Chamber of Electronic Commerce), which	There is no external auditing or certification required.	To obtain the trust mark, the company must be: ( <a href="#">Source</a> ) - A member of the e-MPE Movement and pay its membership fee	The trust mark scheme is partially funded by private companies and partially funded by the Brazilian Ministry of	The trust mark scheme is not established under any law or regulation.	Compliance with the trust mark scheme is monitored by Câmara Brasileira de Comércio Eletrônico.	Benefits to the business include giving more confidence and security to customers which may increase sales, publicity	Non-compliance will result in the trust mark being revoked.	

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			is a private association that aims to promote digital businesses and comprises of members from various companies. (Source <a href="#">1</a> , <a href="#">2</a> )		Accept the terms and conditions and the Code of Ethics.	Communication s (a federal ministry), who is listed as a "master sponsorship". (Source)			during campaigns, and lessons on e-commerce. (Source)		( <a href="#">Camara-e.net</a> ) (Brazil): Comprises of multiple stakeholders such as consumer groups, companies, Internet governance authorities (CGI.br) and academic representatives. Parties discuss the launch of e-commerce regulations in Brazil.
Chile	<a href="#">Confianza Ecommerce CCS</a>	Voluntary	The trust mark scheme is run by Confianza Ecommerce CCS, which is a private non-profit organization. It is comprised of large, medium and small sized companies from various sectors, and aims to boost e-commerce in Chile. (Source)	There is no external auditing or certification required; the audit is carried out by Confianza Ecommerce CCS themselves.	To obtain the trust mark, the company must be: (Source) - A member of the Santiago Chamber of Commerce and its Electronic Commerce Committee Have satisfactorily undergone an audit process on their website to validate compliance with the <a href="#">Code of Good Practices for Electronic Commerce</a> that	Confianza Ecommerce CCS is privately funded by its membership fees.	Confianza Ecommerce CCS is not established under any law or regulation.	Compliance with the trust mark scheme is monitored by Confianza Ecommerce CCS.	The trust mark signifies to consumers that the company will comply with the following minimum principles when promoting and offering electronic contracting services, as listed in the Code of Good Practices: (Source) - Legality - Informed Consent	Non-compliance will result in the trust mark being revoked.	o <a href="#">Comite de Comercio Electronico</a> (Chile): Comprises of companies with

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					governs member companies				- Professionalism Good faith		e-commerce sites. Helps to facilitate dialogue with Chilean governmental consumer protection agency, SERNAC, and helps to formulate Chile's digital strategy
Mexico	Clique e-Valide <a href="#">Asociación de Internet MX</a>	Voluntary	The trust mark scheme is run by Asociación de Internet MX, which is a private Mexican civil association comprised of stakeholders in the internet industry. ( <a href="#">Source</a> )	There is no external auditing or certification required.	The following is required: ( <a href="#">Source</a> ) - Payment of membership fee - Various company documents - Specifications as to what should be on the website, including: o Privacy notice o Physical address o Landline phone number o Detailed description of goods and/or services o Total costs and taxes o Information about the	Asociación de Internet MX is privately funded by its membership fees. ( <a href="#">Source</a> )	Asociación de Internet MX is not established under any law or regulation. ( <a href="#">Source</a> )	Compliance with the trust mark scheme is monitored by Asociación de Internet MX.	There are the following benefits: ( <a href="#">Source</a> ) <u>For consumers:</u> - Online trust, security and support - The business engages in good online practices. - Dispute resolution procedures like mediation - Greater certainty when buying online - Facilitation of communication between	Non-compliance will result in the trust mark being revoked. ( <a href="#">Source</a> )	<ul style="list-style-type: none"> <li><a href="#">Asociacion de Internet MX</a> (Mexico): Comprises of members from various sectors.</li> </ul>

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					<p>payment methods</p> <ul style="list-style-type: none"> <li>Shipping or delivery conditions</li> <li>Cancellation, return or exchange conditions</li> <li>Terms and Conditions of Use (also known as Legal Notice)</li> <li>Secure Socket Layer (SSL) enabled site wide, meaning that there is an encryption padlock</li> <li>Social networks</li> <li>Security measures implemented for the</li> </ul>				<p>providers and consumers.</p> <p><u>For businesses:</u></p> <ul style="list-style-type: none"> <li>Recognition of legitimacy and their effort to improve the Internet environment.</li> <li>Results in consumer trust and certainty</li> <li>Commitment to the best practices</li> </ul> <p>Dispute resolution processes Annual training on e-commerce</p>		

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					<p>protection of personal and financial data</p> <ul style="list-style-type: none"> <li>○ Description of which financial entities and acquirers it operates for purchases</li> </ul> <p>Links to PROFECO and CONDUSEF to reinforce prevention, protection and consumer rights</p>						
Peru	Camara Peruna de Comercio Electronico ( <a href="#">CAPECE</a> )	Voluntary	The trust mark scheme is run by Camara Peruna de Comercio Electronico, which translates to the Peruvian Chamber of Electronic Commerce and seems to be a private organization in the	There is no external auditing or certification required.	<p>In order to meet the criteria, the company has to: (<a href="#">Source</a>)</p> <ul style="list-style-type: none"> <li>- Be a company legally incorporated in Peru.</li> <li>- Make the payment for annual membership to CAPECE according to the</li> </ul>	CAPECE seems to be privately funded, further information on this issue is not available.	Insufficient information to determine based on their <a href="#">website</a> and online sources, but it is unlikely that it is established under any law or regulation.	Insufficient information to determine.	Benefits depend on the type of subscription to Capece. Benefits include learning from industry experts, mentoring to increase sales, and the trust mark giving confidence	Insufficient information to determine, but it is likely that non-compliance will result in the trust mark being revoked.	

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			form of a partnership. ( <a href="#">Source</a> )		corresponding category. - Commit to fulfill the Code of conduct and good practices in electronic commerce. Be approved by the CAPECE Evaluation Committee, a response that will be given within 48 hours, counted from the date the applicant provides the documents.				to consumers. ( <a href="#">Source</a> )		
Guatemala	Gremial de Comercio Electrónico de Guatemala ( <a href="#">GRECOM</a> )	Voluntary	Insufficient information to determine.	Insufficient information to determine.	Insufficient information to determine based on their <a href="#">website</a> and other sources online.	Insufficient information to determine.	Insufficient information to determine.	Insufficient information to determine.	For businesses, the trust mark is an endorsement for their company. They will also gain benefits such as: ( <a href="#">Source</a> ) - Being listed in the e-commerce business <a href="#">directory</a>	Insufficient information to determine, but it is likely that non-compliance will result in the trust mark being revoked.	



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									<ul style="list-style-type: none"> <li>- Receive business advice</li> <li>- Training for their staff</li> <li>- Digital fairs to promote sales</li> </ul> Free learning materials		
Brunei	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	Government / regulatory stakeholders: <ul style="list-style-type: none"> <li>• Department of Competition and Consumer Affairs (conducts advocacy, receives complaints and conducts market reviews<sup>215</sup> – appears to be quite active in outreach)</li> </ul> Business actors:

<sup>215</sup> See <https://www.asean-competition.org/selectcountry=Brunei>

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											<ul style="list-style-type: none"> <li>Naindah (e-commerce website)</li> <li>Babakimo (e-commerce website)</li> </ul> <p>Consumers / Consumer associations:</p> <ul style="list-style-type: none"> <li>Consumer Association Brunei ("CAB")</li> <li></li> </ul>
Cambodia	<ul style="list-style-type: none"> <li>E-Commerce Trustmark Certificate<sup>216</sup></li> </ul> <p>Implementation is done on a national level. Purpose and scope is to certify conformity, safety and trust of a trader's e-commerce activities</p>	Voluntary	<ul style="list-style-type: none"> <li>Government – Ministry of Commerce ("MOC") is the competent authority for granting the certificate</li> </ul>	No	NA – awaiting implementing regulations <sup>217</sup>	Public	Law on E-Commerce, Sub-Decree No.134	MOC	Allows businesses to increase competitive advantage and build trust with stakeholders	NA – awaiting implementing regulations <sup>218</sup>	<p>Government / regulatory stakeholders:</p> <ul style="list-style-type: none"> <li>MOC</li> <li>Ministry of Posts and Telecommunications of Cambodia ("MPTC") which coordinates and develops e-commerce policies and strategies at the national and international level</li> </ul>

<sup>216</sup> See [https://www.bun-associates.com/wp-content/uploads/2020/09/BA-Alert\\_E-Commerce-License-and-Permit-and-Exemptions.pdf](https://www.bun-associates.com/wp-content/uploads/2020/09/BA-Alert_E-Commerce-License-and-Permit-and-Exemptions.pdf)

<sup>217</sup> See above

<sup>218</sup> See above

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											<ul style="list-style-type: none"> <li>Consumer Protection Competition and Fraud Repression Directorate-General<sup>219</sup> ("CCF")</li> </ul>
Indonesia	E-commerce <sup>220</sup> : <ul style="list-style-type: none"> <li>Certificate of Competence under Government Regulation No.71 of 2019 on the Implementation of Electronic Systems and Transactions ("GR 71")</li> <li>Purpose is to authenticate and validate electronic transactions. Under the scheme, all electronic</li> </ul>	<ul style="list-style-type: none"> <li>Mandatory for business actors that conduct electronic transactions</li> </ul> Separate requirements apply to public and private Electronic System	<ul style="list-style-type: none"> <li>Government – Minister of Communications and Informatics ("MOCI")               <ul style="list-style-type: none"> <li>o</li> </ul> </li> </ul>	A Certificate of Competence may be obtained after assessment or audit by an authorized agency, i.e. a registered Indonesian reliability certification institution	ESOs meet the requirements under GR 71, of which there are many – e.g., they must operate their electronic systems reliability and safely, each electronic system must comply with the minimum requirements to (a) re-display the electronic information; (b) protect the availability, integrity, authenticity, confidentiality and	Public	<ul style="list-style-type: none"> <li>GR 71</li> </ul>	Private ESOs bear responsibility for ensuring they have appointed a liaison officer to facilitate any request access by the government and that they have an audit trail. However, such	Value: <ul style="list-style-type: none"> <li>Allows businesses to increase competitive advantage and build trust with stakeholders</li> </ul> Conversely, flaws of existing scheme: <ul style="list-style-type: none"> <li>GR 71 has been issued</li> </ul>	Violation of GR 71 may lead to administrative sanctions – warning letters, fines (amount is not stipulated under GR 71 as of yet), suspension of activities, blocking of access, removal from	Government / regulatory stakeholders: <ul style="list-style-type: none"> <li>MOCI</li> <li>Minister of Trade</li> </ul> Business actors: <ul style="list-style-type: none"> <li>Bukalapak (one of the largest e-commerce platforms and the first in Indonesia to digitalize mom-and-pop stores<sup>222</sup>. They might be able to offer a broader perspective with regard to SMEs</li> </ul>

<sup>219</sup> See <https://www.cfdg.gov.kh/>

<sup>220</sup> See <https://www.bakermckenzie.com/en/insight/publications/2019/10/new-regulation-electronic-system-and-transactions>

<sup>222</sup> See [https://www.iseas.edu.sg/wp-content/uploads/2021/07/ISEAS\\_Perspective\\_2021\\_102.pdf](https://www.iseas.edu.sg/wp-content/uploads/2021/07/ISEAS_Perspective_2021_102.pdf), page 7

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	<p>transactions must use an <b>electronic certificate</b> issued by a certified Indonesian electronic certification operator</p> <ul style="list-style-type: none"> <li>Electronic certification services cover electronic services, electronic seals, electronic time makers, recorded electronic delivery services, website</li> </ul>	Operators ("ESO"s)			accessibility of the electronic information and (c) operate in accordance with its procedures or instructions			compliance is for the purposes of government oversight (precise government authority responsible for oversight will have to await the issuance of the implementing regulations)	but no implementing regulations have issued to operationalize it GR 71 is vague. e.g. Regulation 5 provides for prohibited content but does not define or explain what potentially falls under each stated category)	list of registered electronic system operators	<p>and brick-and-mortar stores)</p> <ul style="list-style-type: none"> <li>OVO (payment platform)</li> </ul> <p>Trade associations / Consumers / Consumer associations /:</p> <ul style="list-style-type: none"> <li>Indonesian Internet Service Providers Association (APJII)</li> <li>Consumers Association from Indonesia<sup>223</sup> ("YKLI")</li> </ul>

<sup>223</sup> See <https://www.consumersinternational.org/members/members/consumers-association-from-indonesia/>

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	<p>authentication and preservation of electronic signatures or electronic seals</p> <ul style="list-style-type: none"><li>Electronic transactions may also use a <b>reliability certificate</b> issued by a registered Indonesian reliability certification institution<ul style="list-style-type: none"><li>Reliability may be in relation to identity registration, electronic system security., guarantee</li></ul></li></ul>										

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	<p>statements on goods and services, privacy policy<sup>221</sup></p> <ul style="list-style-type: none"> <li>As for implementation, it is conducted on a national level (Note: foreign / offshore private ESOs that provide services, conduct business activity or use/offer electronic systems in Indonesia are also caught, i.e. they must register their ESOs in Indonesia)</li> </ul>										

<sup>221</sup> See <https://siplawfirm.id/key-points-of-government-regulation-no-71-of-2019-on-organization-of-electronic-systems-and-transactions/>

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	Sectoral: See above (Note: GR 71 is arguably a sectoral rather than e-commerce trustmark as it pertains to general data protection)										
Laos (upcoming, pending development of key infrastructure to enforce Decree 296)	E-commerce Trust Mark issued under Decree 296	Mandatory – e-shops that wish to operate in Laos must apply for the e-commerce business licence from MOIC and will receive a Trust Mark accordingly.	MOIT, MCT, BOL	Insufficient information to determine	Amongst others, the e-shops needs to submit to the MOIC: <ul style="list-style-type: none"> <li>an application form;</li> <li>a copy of its enterprise registration certificate, ID or family book and certificate of residence for individuals;</li> <li>a copy of business operation licence from relevant</li> </ul>	Public funding	Yes – Decree 296	MOIC, MCT, BOL	Given the requirement for e-shops to produce business registration documents and certification documents to use payment services in Laos, the Trust Mark scheme under Decree 296 would provide consumers certainty that the e-shops are run by legitimate businesses or	NA	Government / regulatory stakeholders: <ul style="list-style-type: none"> <li>MOIC</li> <li>MCT</li> <li>BOL</li> </ul>

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					ministries, if applicable; and <ul style="list-style-type: none"> <li>a copy of certification documents to use payment services in Laos.</li> </ul>				persons which can be tracked down by government authorities for dispute resolution purposes if necessary. The scheme also provides some assurance that the e-shops will be using safe payment processing methods.		
Malaysia	MyTrustSEAL	Voluntary	CyberSecurity Malaysia (“CSM”) under the Ministry of Communication and Multimedia	None. Security Technical can be outsourced	MyTrustSEAL principles are Information Disclosure, Security and Privacy	Private funding	CSM is a member of World Trustmark & trade Alliance (WTA). CSM adopted WTA Code of Conduct and	CSM  Require annual compliance monitoring and recurring certification fee.	MyTrustSEAL is offered to the e-shop owner as proactive action to prevent online data breach / leakage and give assurance to the consumer on their	Revocation of the trust seal and listed under non-validated e-shop	CSM



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							customised the requirements.  CSM also included the Personal Data Protection Act 2010 to the Privacy principles.		online transaction and personal data is protected.		
Myanmar	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	Government / regulatory stakeholders and/or Consumers / Consumer Associations: <ul style="list-style-type: none"> <li>Department of Consumer Affairs</li> <li>Myanmar Consumers Union</li> <li>Myanmar Consumer Protection Commission</li> </ul>
Philippines	E-commerce: <ul style="list-style-type: none"> <li>Sure Seal</li> </ul> Sectoral:	Voluntary	<ul style="list-style-type: none"> <li>Private, for-profit organization</li> </ul>	Other than Sure Seal themselves, no	Validates legitimacy of sellers and buyers by authenticating the details they post about	Private (for-profit)	No	No publicly available information	Allows businesses to increase competitive advantage and	No publicly available information	Government / regulatory stakeholders: <ul style="list-style-type: none"> <li>Department of Trade and Industry ("DIT")</li> </ul>

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	The National Privacy Commission (“NPC”) was slated in May – June 2021 to roll out a privacy certification for data protection but it does not appear to have been implemented <sup>224</sup>		Certifies Philippine-based websites based on its criteria. Implemented on a national level (see criteria for elaborated scope)		themselves. Apart from business claims, they also check legal documents, credentials, privacy policies (in accordance with certain international standards, e.g. International APEC Data Privacy Standards), depending on the service purchased (Sure Seal Personal, Business or Premium)				build trust with stakeholders (although arguably this is less so if the certification may be bought)		Trade associations / Consumers / Consumer Associations: <ul style="list-style-type: none"> <li>Asia Trustmark Alliance (“ATA”) – DITI joined ATA via Sure Seal<sup>225</sup></li> <li>The Consumer Protection Group (“CPG”)</li> <li>The Consumers Union of the Philippines (“CUP”)</li> </ul> Trustmark providers: <ul style="list-style-type: none"> <li>Sure Seal</li> </ul>
Singapore	E-commerce: <ul style="list-style-type: none"> <li>TrustSg – implemented on a national level. Applies to B2B, B2C and e-businesses that</li> </ul>	<ul style="list-style-type: none"> <li>TrustSg – voluntary</li> <li>DPTM – voluntary</li> </ul>	<ul style="list-style-type: none"> <li>TrustSg – government-appointed organizations. CommerceNet Singapore</li> </ul>	<ul style="list-style-type: none"> <li>TrustSg – no</li> <li>DPTM – no</li> <li>CBPR – accountability</li> </ul>	<ul style="list-style-type: none"> <li>TrustSg – businesses must comply with the Cde of Practice set by their respective Authorized Code Owners (“ACO”s),</li> </ul>	<ul style="list-style-type: none"> <li>TrustSg – private and public (has some government funding)</li> </ul>	<ul style="list-style-type: none"> <li>TrustSg – no</li> <li>DPTM – no</li> </ul>	<ul style="list-style-type: none"> <li>TrustSg – CNSG (assumed but no publicly available information)</li> </ul>	<ul style="list-style-type: none"> <li>TrustSg – increase competitive advantage, build trust with stakeholders</li> </ul>	<ul style="list-style-type: none"> <li>TrustSg – no publicly available information</li> </ul>	Government / regulatory stakeholders: <ul style="list-style-type: none"> <li>IMDA</li> </ul> Trade associations:

<sup>224</sup> See <https://www.privacy.gov.ph/net.ph/index.php/2021/05/13/philippine-privacy-mark/> and <https://www.dpexnetwork.org/news/view/AT7YtGfppps2p5MUn5ZM2/>

<sup>225</sup> See <https://www.worldtrustmark.org/introduction/>

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	<p>operate in the retail and services industry</p> <p>Sectoral:</p> <ul style="list-style-type: none"> <li>DP Trustmark (DPTM)<sup>226</sup> – implemented on a national level. Is a framework to adopt and align an organization's practices with Singapore's Personal Data Protection Act ("PDPA") and other international standards. For organizations to demonstrate that they have accountable data</li> </ul>	<ul style="list-style-type: none"> <li>CBPR – voluntary</li> </ul> <p>PRP – voluntary</p>	<p>("CNSG") administers TrustSg Trustmark for B2B and B2C businesses while the Consumers Association of Singapore ("CASE") administers the TrustSg trustmark for e-businesses in the real and service industry</p> <ul style="list-style-type: none"> <li>DPTM – IMDA</li> <li>CBPR – IMDA</li> </ul>	<p>agents, which may be public or private sector independent CBPR-system recognized entities, are responsible for assessing an organization's data protection practices. Certification is ultimately awarded by IMDA</p> <p>PRP – assessment is done by an external private assessment body. Certification is</p>	<p>i.e., CNSG and CASE</p> <ul style="list-style-type: none"> <li>DPTM – organizations must have policies that comply with the obligations under PDPA in place and demonstrate that they are implemented and practiced in day-to-day operations</li> <li>CBPR – must implement adequate protection for personal data and ensure there are consumer-friendly complaint handling</li> </ul>	<p>but mostly industry-driven and funded – the National Trust Council ("NTC") which launched the TrustSg scheme is made up of a mix of public and private industry bodies and is funded by its members<sup>13)</sup></p>	<ul style="list-style-type: none"> <li>CBPR – no but is based on the principles under the APEC Privacy Framework</li> </ul> <p>PRP – no but is based on the principles under the APEC Privacy Framework</p>	<p>as to whether they monitor compliance after the trustmark has been issued), CASE (it is known that it regularly conducts market surveillance)</p> <ul style="list-style-type: none"> <li>DPTM – self-regulation as the certified organization has a responsibility to notify</li> </ul>	<ul style="list-style-type: none"> <li>DPTM – increase competitive advantage, build trust with stakeholders</li> <li>CBPR – reduces costs and time associated with facilitating international data flows (by applying a single set of privacy standards), builds trust and confidence,</li> </ul>	<ul style="list-style-type: none"> <li>DPTM – IMDA may revoke certification</li> <li>CBPR – IMDA may revoke certification</li> </ul> <p>PRP – IMDA may revoke certification</p>	<ul style="list-style-type: none"> <li>NTC, as the body that appoints CNSG and CASE as trustmark certifiers</li> </ul> <p>Consumers / Consumer associations:</p> <ul style="list-style-type: none"> <li>CASE</li> </ul> <p>Trustmark providers:</p> <ul style="list-style-type: none"> <li>CNSG</li> <li>CASE</li> </ul>

<sup>226</sup> See <https://www.imda.gov.sg/-/media/Imda/Files/Programme/DPTM/DPTM-Information-Kit.pdf?la=en&hash=DC9E8100F2A38F607BD83BEB07C4219E>

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	<p>protection practices. Enterprise-wide</p> <ul style="list-style-type: none"> <li>CBPR<sup>227</sup> – voluntary – implemented on a national level and is a data privacy certification that companies can join to demonstrate compliance with internationally-recognized data privacy protection. Applies to data-controllers that control, hold, process or use personal data</li> </ul>		PRP – IMDA	ultimately awarded by IMDA	<p>procedures in place</p> <p>PRP – that the processing of personal data is consistent with similar requirements under the APEC CBPR system</p>	<ul style="list-style-type: none"> <li>DPTM – private funding but there is some public funding available via the Enterprise Singapore Enterprise Development Grant (EDG)</li> <li>CBPR – private funding but there is some public</li> </ul>		<p>IMDA of any significant changes that arise during the certification period (3 years)</p> <ul style="list-style-type: none"> <li>CBPR – self-regulation as the certified organization has a responsibility to notify IMDA of any significant changes that arise</li> </ul>	<p>provides assurance, demonstrates good faith compliance</p> <p>PRP – increase competitive advantage build trust with stakeholders</p>		

<sup>227</sup> See <https://www.imda.gov.sg/-/media/Imda/Files/Programme/CBPR-and-PRP/CBPR-Information-Kit.pdf?la=en&hash=15C4EADE10B648D50DB026C55D701F7A>

Jurisdiction	List of trust marks* and associated trust mark associations *Selected e-commerce trust marks and key private/ sectoral trust marks only	Voluntary or Mandatory	Organisation(s) administering the trust mark: Government authority vs private sector organisation / for-profit vs non-profit	Formal approval by an accreditation scheme: Is there any auditing or certification by external parties?	Criteria for obtaining trust mark: What criteria must a business meet to gain the trust mark?	Funding: Private vs Public funding	Authority: Is the trust mark established by any law or regulation?	Monitoring body: Who is responsible for monitoring compliance with the trust mark scheme?	Value of scheme: What benefits do the trust mark give to both the consumer and the businesses?	Consequence of non-compliance with trust mark requirements	Key players in the trust mark scheme
	<p><sup>228</sup></p> <ul style="list-style-type: none"> <li>PRP certification – voluntary – implemented on a national level and is a data privacy certification that companies can join to demonstrate compliance with internationally-recognized data privacy protection. Applies to data processors who process data on behalf of data controllers. Purpose is to allow data processors to demonstrate that they provide effective</li> </ul>					<p>funding available via EDG</p> <p>PRP – private funding but there is some public funding available via EDG</p>		<p>during the certification period (1 year)</p> <ul style="list-style-type: none"> <li>PRP – self-regulation as the certified organization has a responsibility to notify IMDA of any significant changes that arise during the certification period (1 year)</li> </ul>			

<sup>228</sup> See <https://www.imda.gov.sg/-/media/Imda/Files/Programme/CBPR-and-PRP/PRP-Information-Kit.pdf?la=en&hash=DE636B8E1738518E1E90034A58ECCAD8>

Jurisdiction	List of trust marks* and associated trust mark associations *Selected e-commerce trust marks and key private/ sectoral trust marks only	Voluntary or Mandatory	Organisation(s) administering the trust mark: Government authority vs private sector organisation / for-profit vs non-profit	Formal approval by an accreditation scheme: Is there any auditing or certification by external parties?	Criteria for obtaining trust mark: What criteria must a business meet to gain the trust mark?	Funding: Private vs Public funding	Authority: Is the trust mark established by any law or regulation?	Monitoring body: Who is responsible for monitoring compliance with the trust mark scheme?	Value of scheme: What benefits do the trust mark give to both the consumer and the businesses?	Consequence of non-compliance with trust mark requirements	Key players in the trust mark scheme
	<p>implementation of a data controller's privacy requirements and their general capacity to process personal data</p> <ul style="list-style-type: none"> <li>SG Cyber Safe Trustmark<sup>229</sup> [yet to be implemented but good to note – the trustmark is meant to identify enterprises that have good cybersecurity measures that correspond to their risk profiles in place]</li> </ul>										

<sup>229</sup> The SG Cyber Safe Trustmark is intended to be voluntary and meant for companies who have higher cybersecurity risk profiles (likely those who provide cybersecurity services to other service providers) to distinguish themselves. See <https://www.csa.gov.sg/Programmes/sgcybersafe>

Jurisdiction	List of trust marks* and associated trust mark associations *Selected e-commerce trust marks and key private/ sectoral trust marks only	Voluntary or Mandatory	Organisation(s) administering the trust mark: Government authority vs private sector organisation / for-profit vs non-profit	Formal approval by an accreditation scheme: Is there any auditing or certification by external parties?	Criteria for obtaining trust mark: What criteria must a business meet to gain the trust mark?	Funding: Private vs Public funding	Authority: Is the trust mark established by any law or regulation?	Monitoring body: Who is responsible for monitoring compliance with the trust mark scheme?	Value of scheme: What benefits do the trust mark give to both the consumer and the businesses?	Consequence of non-compliance with trust mark requirements	Key players in the trust mark scheme
	Cyber hygiene mark <sup>14</sup> [yet to be implemented but good to note – intended to complement the SG Cyber Safe Trustmark]										
Thailand	Thailand Trustmark - Implemented on a national level. Purpose is to distinguish products and services that are made in Thailand. Also certifies that the applicant has met certain standards, e.g. the Green Industry Standard, certain Corporate Social Responsibility standards and fair labour standards <sup>230</sup>	Voluntary	Government – Department of International Trade Promotion (“DITP”), Ministry of Commerce, Royal Thai Government	No	Must comply with registration requirements and meet certain domestic or international standards (depending on the product) <sup>231</sup>	Public	No	DITP	For businesses – accredited businesses get to enjoy greater promotion in the media and more opportunities to take part in national network and distribution programs <sup>232</sup> . Also allows businesses to increase competitive advantage and	No publicly available information	Government / regulatory stakeholders / Consumers / Consumer Associations: <ul style="list-style-type: none"> <li>• DITP</li> <li>• Office of the Consumer Protection Board of Thailand (“OCPB”)</li> <li>• Department of Business Development (encourages e-commerce operators and e-sellers to apply for a department-verified trustmark to</li> </ul>

<sup>230</sup> See <https://www.thailandtrustmark.com/en/about>

<sup>231</sup> See <https://www.bangkokpost.com/thailand/pr/1931840/check-these-7-qualities-to-apply-for-t-mark-a-symbol-of-excellence-and-trusted-quality-recognised-around-the-world> and <https://www.thailandtrustmark.com/en/apply>

<sup>232</sup> See <https://www.thailandtrustmark.com/en>

Jurisdiction	List of trust marks* and associated trust mark associations *Selected e-commerce trust marks and key private/ sectoral trust marks only	Voluntary or Mandatory	Organisation(s) administering the trust mark: Government authority vs private sector organisation / for-profit vs non-profit	Formal approval by an accreditation scheme: Is there any auditing or certification by external parties?	Criteria for obtaining trust mark: What criteria must a business meet to gain the trust mark?	Funding: Private vs Public funding	Authority: Is the trust mark established by any law or regulation?	Monitoring body: Who is responsible for monitoring compliance with the trust mark scheme?	Value of scheme: What benefits do the trust mark give to both the consumer and the businesses?	Consequence of non-compliance with trust mark requirements	Key players in the trust mark scheme
									build trust with stakeholders since the trustmark certifies conformance with nationally and internationally-recognized standards		increase consumer confidence)  Business (or more appropriately in this case, e-commerce) actors: <ul style="list-style-type: none"> <li>Thaيمarket (website that promotes verified e-marketplaces and e-sellers)</li> </ul> Trustmark providers: <ul style="list-style-type: none"> <li>TrustMark Thai DBD</li> </ul>
Vietnam	SafeWeb - a pilot scheme implemented on a national level by the Government – Ecom Viet is under the Ministry of Industry and Trade	Voluntary	Vietnam E-commerce Development Center (“Ecom Viet”)	No	<ul style="list-style-type: none"> <li>Must comply with the standards set by Ecom Viet<sup>233</sup> <ul style="list-style-type: none"> <li>Properly incorporated</li> <li>Properly registered with the Department</li> </ul> </li> </ul>	Public	No	Ecom Viet	<ul style="list-style-type: none"> <li>For businesses – builds consumer trust, promotes a higher degree of professionalism of</li> </ul>	No publicly available information	Consumers / Consumer associations: <ul style="list-style-type: none"> <li>Vietnam Standards and Consumers Association (“VINASTAS”)</li> </ul> Trustmark providers: <ul style="list-style-type: none"> <li>Ecom Viet</li> </ul>

<sup>233</sup> See <http://www.safeweb.vn/tieu-chi-tham-dinh-website-cung-ung-dich-vu-tmdt/n10.html>



Jurisdiction	List of trust marks* and associated trust mark associations *Selected e-commerce trust marks and key private/ sectoral trust marks only	Voluntary or Mandatory	Organisation(s) administering the trust mark: Government authority vs private sector organisation / for-profit vs non-profit	Formal approval by an accreditation scheme: Is there any auditing or certification by external parties?	Criteria for obtaining trust mark: What criteria must a business meet to gain the trust mark?	Funding: Private vs Public funding	Authority: Is the trust mark established by any law or regulation?	Monitoring body: Who is responsible for monitoring compliance with the trust mark scheme?	Value of scheme: What benefits do the trust mark give to both the consumer and the businesses?	Consequence of non-compliance with trust mark requirements	Key players in the trust mark scheme
					<p>nt of E-commerce and Information Technology</p> <ul style="list-style-type: none"> <li>Has never violated relevant laws and regulations</li> <li>Has in place policies to protect personal information</li> <li>Has clear contractual terms stipulated on the website</li> </ul>				<p>websites, higher success rate of online transactions, ability to consult on e-commerce issues, provides support in dispute resolution with consumer</p> <p>For consumer – ensures they get what they bargained for, improves awareness of e-commerce issues, protects their rights</p>		

Jurisdiction	List of trust marks* and associated trust mark associations *Selected e-commerce trust marks and key private/ sectoral trust marks only	Voluntary or Mandatory	Organisation(s) administering the trust mark: Government authority vs private sector organisation / for-profit vs non-profit	Formal approval by an accreditation scheme: Is there any auditing or certification by external parties?	Criteria for obtaining trust mark: What criteria must a business meet to gain the trust mark?	Funding: Private vs Public funding	Authority: Is the trust mark established by any law or regulation?	Monitoring body: Who is responsible for monitoring compliance with the trust mark scheme?	Value of scheme: What benefits do the trust mark give to both the consumer and the businesses?	Consequence of non-compliance with trust mark requirements	Key players in the trust mark scheme
					<ul style="list-style-type: none"><li>o Advertis honestl</li><li>o Has a proper complaint procedur e in place</li></ul>						

## ANNEX B – Samples Of Trust Mark Criteria From Existing E-Commerce Trust Mark Schemes

### 1. Ecommerce Europe



THE TRUSTMARK | BENEFITS | COUNTRIES | BLACKLIST | FAQs



FOR MERCHANTS: [How to get it](#)

## ECOMMERCE EUROPE TRUSTMARK CODE OF CONDUCT

Choose your language: [FR](#) [NL](#) [EN](#)

- ✓ **We stand for our name:** we give you clear information on our identity, address and how to contact us in a convenient way (e.g. e-mail, social media, telephone) before you place an order. In case we operate on behalf of another merchant we also inform you of his identity.
- ✓ The essential characteristics of the **products and services are adequately described**. The products will be delivered based on the description and the product photo. We remind you about the existence of a legal guarantee of conformity for goods.
- ✓ We will be **clear and transparent on our offer and the price you have to pay** for our services or our products before you enter the order process. We will not charge you for additional services or products unless you explicitly agreed with these additional services or products. Before concluding the contract you will see the final prices, VAT, delivery costs and eventually surcharges.
- ✓ We take care to have a **transparent, accessible and easy order process** that provides you with the possibility to check your order and eventually correct it before you finally conclude the contract. We always will confirm your order and give you information on your order and progress.
- ✓ We use **fair, easy accessible and transparent contract terms** in plain language that respect your rights. We will provide an easy way to communicate, to print or to download these contract terms.
- ✓ We offer you **transparent, convenient, widely accepted and safe payment methods** (e.g. PayPal, payment via invoice).
- ✓ We use **transparent, convenient, widely accepted and safe delivery systems** based upon the information provided at transparent prices. We will deliver at the place and time as specified in the offer.
- ✓ Before you conclude the contract we will provide **clear and transparent information on your legal rights and obligations**, your withdrawal right or the absence of it, the costs of effecting your withdrawal right (as and if required by EU legislation) and, in case you have a withdrawal right, the standard European withdrawal form. We will provide easy and transparent return and refund procedures.
- ✓ You can always **contact us in an easy and convenient way**. We commit ourselves to offering a transparent and easily accessible customer service and complaints handling system. We inform you about the possibility of out-of-court dispute resolution and display the link towards the European [Online Dispute Resolution platform](#) on our website.
- ✓ **We respect your privacy, protect your data and care for a safe web-environment**. We are transparent and inform you about the collecting and processing of your data and the purposes for which we use them, including information regarding cookies policy. Data is collected to carry out the contract and to improve our offer to you and your buying experience. Your data is collected in compliance with data protection and privacy legislation and, as far as legally required, only with your explicit consent.

\*\*\*\*\*

## 2. Hong Kong Trust Mark:

Latest: PC3 至尊品牌 Platinum Brand 2021



**HKFEC 香港電商聯會**  
Hong Kong Federation of E-Commerce



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### Code of Practice

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Get Widget



**Online Shopping**  
**Who to Trust ?**

- Transparent information about the trader
- Clear, complete and accurate product description
- Transparent pricing, inclusive of all charges and taxes
- Accurate information to the customer on product availability and delivery times
- Delivery according to the specifications and timing indicated to the customer
- Clear returns process and prompt reimbursement
- Accessible customer service and timely complaint management
- Protection of personal data according to the Personal Data (Privacy) Ordinance
- Secure payment methods
- Online, fully documented, interactive and accessible procedure which enables and ensures merchants' compliance with the Trust Mark requirements
- Online and interactive support and advice to facilitate any necessary improvements to be made by the merchant before the Trust Mark can be awarded
- Auditable record of accreditation and Trust Mark performance including the retention of approved Terms & Conditions
- Traders should provide information about ADR/ODR services to resolve consumer complaints
- The Trust Mark can be withdrawn if the trader does not comply with the code of conduct or in the case of insolvency

### 3. Retail Excellence Trust Mark Criteria



## The Trustmark Criteria

### 1 Legal Notices

**1.1** Clearly visible, directly accessible and continuously available regulatory information (Company Identification) must be able to be opened (e.g. a button named "Legal Information" or comparable or a text window).

**1.2** The Website and communications must contain the following information:

- (a) the name of the company, in case of legal entities the legal form;
- (b) the address of the place in which the company has its registered offices (if applicable, a different business address to which consumers can address any complaints they may have);
- (c) email address and phone number, if applicable, fax number;
- (d) the VAT number, if issued.

### 2 Communications

All communications from consumers must be responded to by you within 7 days.

### 3 Right to Cancel

**3.1** The information on the Right to Cancel must be able to be opened easily (e.g. via a button named "Right to Cancel" or similar or a text window).

**3.2** The cancellation policy (policies) and the specimen cancellation form must be provided to consumers in good time before they commit to a contract, in a clear and understandable way adapted to the means of telecommunication used.

**3.3** The cancellation policy must inform consumers about the Right to Cancel, and in particular provide details in respect of:

- (a) the length of the cancellation period;

- (b) that they do not need a reason to exercise the Right to Cancel;
- (c) the start of the cancellation period;
- (d) the form in which they must exercise their Right to Cancel (clear explanation) with reference to the enclosed specimen cancellation form;
- (e) the requirements of meeting the deadline for exercising the Right to Cancel;
- (f) the name, address and, where available, fax number, telephone number and email address of the recipient of the cancellation notice;
- (g) the conditions for returning the goods;
- (h) the duty to bear costs and if applicable the amount of the costs for returning goods;
- (i) any compensation to be paid for loss in value of the goods (according to any relevant statutory provisions).

**3.4** Before committing to a contract, consumers must be informed about any legal reasons for exclusion or limitation of the Right to Cancel and/or the requirements for expiry of their Right to Cancel.

#### **4 General Terms and Conditions of Business (T&Cs)**

4.1 The T&Cs / customer information must be able to be opened easily (e.g. via a button named "T&Cs / Consumer Information" or comparable or a text window).

4.2 The T&Cs / customer information must be clearly structured, easy to read and in a form that can be saved and printed out.

#### **5 Further duties to provide information for distance selling contracts**

5.1 You must provide consumers with the following further information, in good time before they commit to a contract, in a clear and understandable way in the means of telecommunication used:

- (a) information on the relevant right to a guarantee for goods and if applicable the existence and conditions of a warranty;
- (b) where applicable, information about the existence and conditions for customer services.

#### **6 Payment Terms**

**6.1** Consumers must be provided with the information on the Payment Terms in a clear and understandable way in good time before they commit to a contract in a way corresponding to the means of telecommunication used.

**6.2** Consumers must be informed about the means of payment available to them (at the start of the ordering process).

## **7 Delivery terms**

**7.1** Consumers must be provided with the information about delivery in a clear and understandable way in good time before they commit to a contract in a way corresponding to the means of telecommunication used.

**7.2** Terms and conditions of delivery and restrictions must be able to be opened easily (at the start of the ordering process at the latest) (e.g. via a link to the "Payment and Dispatch" page or a comparably named button or a text box).

**7.3** The delivery date, by which the goods are to be delivered or the services provided, is to be included (e.g. on the product page).

## **8 Price information, freight, delivery and dispatch costs**

**8.1** The total price (including all price components) must be assigned to the offer in a way that is easily identified, transparent and complete, and if applicable the means of price calculation.

**8.2** Before initiating the order process the following must be shown in the total price:

(a) the freight, delivery and dispatch costs and all other costs for all countries to which deliveries are made (directly in the offer or indirectly via a link to the "Payment and Dispatch" page or comparable); if the amount cannot be reasonably calculated in advance, information must be provided that such additional costs can be incurred.

**8.3** In the case of contracts without a time limit or subscription agreements the total price (total costs incurred per billing period, in the case of fixed amounts the total monthly costs too; if applicable the type of price calculation) must be given.

## **9 Product description, sales & distribution restrictions**

**9.1** In the case of distance selling contracts you must inform consumers in good time before they commit to a contract, in a clear and understandable way, to an extent appropriate for the means of communication, about the essential properties of the goods or services.

## 10 Order process

**10.1** Consumers must be informed explicitly as to whether the placing of goods in the shopping basket constitutes a binding commitment.

**10.2** The order overview must display the following information:

- (a) the essential properties of the goods or services to an extent appropriate for the means of communication and for the goods and services;
- (b) the total price of the goods or services (if applicable the type of price calculation) including all taxes and charges;
- (c) additionally, incurred freight, delivery and dispatch costs and all other costs (if these cannot be reasonably calculated in advance, then consumers must be informed that they could be incurred).

## 11 Data Protection

**11.1** The Privacy Policy must be able to be opened easily and clearly wherever personal data is collected (e.g. via a button named "Privacy Policy" or comparable button or a text box).

**11.2** In a Privacy Policy you must inform consumers about the basic principles for the handling of personal data, especially the type, scope and purpose of the collection, processing and use of the data.

**11.3** The Privacy Policy must contain information about the use of cookies and comply with the ePrivacy Regulations.



#### 4. Confianza Online Code of Ethics

[The following is an unofficial translation of the 2015 version of the Spanish Code of Ethics extracted from <https://www.g-regis.com/downloads/SPConfianzaOnlineEthicalCodeFullTrans.pdf>. The latest version of the Spanish Code of Ethics can be found on the Confianza Online website at [https://www.confianzaonline.es/doc/codigo\\_etico\\_confianzaonline.pdf](https://www.confianzaonline.es/doc/codigo_etico_confianzaonline.pdf).]



**The Confianza Online Ethical Code was presented to the public on 28 November 2002 and came into force in January of 2003. This is the latest version of the code, which includes revisions made by the Telecommunications Act No. 9/2014 of 9 May and Law No. 3/2014 of March 27, modifying the consolidated text of the General Consumer and User Defense Act, as well as other supplementary laws (approved by Royal Legislative Decree No. 1/2007 of 16 November).**

### CONFIANZA ONLINE ETHICAL CODE

#### PREAMBLE

The origins of the Internet can be traced back, as is well known, to the 1960's and, in particular, to a university-based research project launched by various agencies of the United States government. All of this is not to discount the great contribution to the origin and evolution of the Internet made by Europe in the 1980's, especially in the development of communications protocol at the European Laboratory for Particle Physics (CERN) in Switzerland by the scientists R. Carilliau and T. Berners-Lee who christened the global information system for the exchange of data essential to the scientific community, also known as the "world wide web" (www). Since those early days, to the present day, the Internet has experienced a rapid evolution whose latest phase is currently underway: the project of technological convergence. Nowadays, the Internet represents an efficient way of accessing and exchanging a massive amount of information as well as a new means of communication and commercial transactions. No longer an idea of the future, it has become an established reality with tremendous potential and constitutes the spearhead of electronic distance communications media.

Indeed, in recent years we have witnessed the unraveling of a technological revolution, one unprecedented in how quickly it has spread among users. Today, both businesses and consumers make extensive use of what have become known as "new technologies", the Internet possibly being the most visible and characteristic of these. The expansion of these technologies has been unstoppable so far and, in some cases, such as mobile phones or the Internet itself, an unpredictable phenomenon. This often makes dealing with problems concerning the applicability of existing legal regulations a challenge. A clear example of the growth of new technologies have been data services (short messages to Push, Premium, GPRS and WAP mobile devices), which have generated an increasing percentage of the activity in the mobile phone sector, and which constitute a phenomenon to which self-regulation has had to remain attentive.

The Internet has been revolutionized by the emergence in recent years of new technologies: the participatory web (Web 2.0) and the semantic web (Web 3.0). These aim to provide a special role to the recipient of information in electronic media. Thus, while traditionally it was the information provider, it is now the user who becomes the source of information and images. It is the end user, versus

journalists or broadcasters, who shares their point of view and critique of the news through their own spaces like blogs or participatory tools established by websites. The Web, aside from being a vast global market, has become a cultural and educational tool and a service to pluralism.

These technologies, which have burst onto the scene and spread at an accelerated rate, have also changed the existing relations between suppliers, support media, and users. Thus, the evolution of the Web together with the contribution of broadband Internet have made the Internet a space where users participate widely: sharing information, job seeking, accessing resources, generating audiovisual and musical content, etc. Social media, which include social networks, photoblogs, microblogs, virtual worlds or content aggregators, have presented a range of possibilities and challenges that require unified and integrated solutions.

Nevertheless, the most important part of this revolution is yet to come. The trend in the evolution of technologies always points toward the same path, one marked by the integration of traditionally separate sectors like telecommunications or audiovisual media, a process which is known as technological convergence. The challenge of regulating this reality is even greater, given the confluence of laws pertaining to each sector, at times even contradicting each other. To resolve this issue, both Spanish and European Community lawmakers project future legislation based on the principle of technological neutrality, whereby the applicability of the law is not conditioned by the technological media employed (Internet, telephone, etc.), meaning the laws from different sectors that are contingent on the type of technology will likely disappear or merge into a single legal body.

Consequently, we are facing an extremely dynamic and constantly evolving sector in which the possibilities of legislative obsolescence are greater than in any other. Adapting to the changes and the convergence of the many new technologies that have arrived, while foreseeing solutions to these regulatory problems, is one of the goals at the heart of the present Code. It is for this reason that, after over two years of application, its modification and adaptation to new realities are necessary, as well as to any new regulations that have been introduced during this period.

Services offered via electronic distance communications media are numerous and diverse. They cover a wide range of economically remunerated activities, including contractual transactions, as well as non-remunerated services like commercial communications.

Moreover, it is clear that advertising disseminated via the Internet and other electronic distance communications media is subject to the general rules regulating advertising activity. To the same extent, commercial transactions carried out online remain, in general, subject to the regulations on such transactions *offline*. Although, it is worth clarifying that, while rules especially established for certain communications media (e.g. television) do not apply, it is important to keep in mind that both advertising and contractual transactions carried out via electronic media must comply with current data protection laws, whose main points are encompassed in Spain in the Personal Data Protection Act of 15/1999 (as well as its rules for implementation, including Royal Decree No. 1720/2007 of 21 December, approving the rules for implementation of Organic Law 15/1999 of 13 December on the Protection of Personal Data).

So, the debate focuses largely on whether the Internet and other electronic means of distance communication, such as advertising and certain commercial exchange media, also require special rules regulating commercial communications and contractual transactions made with consumers on the Web. The answer, at first, seems to be yes, since the characteristics of these media establish a need to adapt the existing general regulations in this area as well as to adopt specific rules which address and regulate factual circumstances that do not arise in other media. In any case, whether to apply general rules or special rules based on the medium, new electronic distance communication media require, given their special characteristics, either the establishment of new regulatory and self-regulatory mechanisms or the revision of those already in place.

In a field as dynamic and changing as electronic distance communications media, in which the ability to adapt to technological, economic, and sociological changes is pivotal, self-regulation systems bring a range of advantages over conventional regulation and dispute resolution channels. These include how quickly actions are taken, flexibility, and the vocation of integration and coordination at the transnational or supranational levels, which is a way of overcoming problems that the global nature and lack of territoriality of the Internet pose for national courts and legislation. These are all

very important aspects for proper development of the full potential and benefits offered by new media and services working through them. Current trends in the management of electronic distance communications media are heading in the direction of co-regulation. Within this context, self-regulation and trustmark systems are destined to play an important role, considering their speed in taking action, their flexibility, and their commitment to integration and coordination at the transnational or supranational levels - a route to overcoming problems that the global nature and lack of territoriality of the Internet pose for national courts and legislation.

Not surprisingly, taking into account the not inconsiderable legal challenges that convergence generates as far as the regulation of new media is concerned, both international forums, such as the European Community authorities, and national legislators have recognized the value and effectiveness of self-regulation mechanisms created by the industry itself, and which serve as a complement to the legal and judicial systems of different countries.

In this sense, many authorities on the matter have articulated the need to promote self-regulation systems as essential complements to traditional legal structures in regulating this new medium and assuring high levels of legal certainty and protection of the rights of all parties involved. Indeed, in our immediate surroundings, which is the European Union, European Community legislation has caught on to this trend in various Directives. These include Directive 95/46/EC of 24 October 1995 on the protection of individuals with regard to the processing of personal data, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector, and Directive 2000/31/EC of 8 June on electronic commerce. The latter makes a firm commitment to self-regulation systems, urging Member States and the Commission to vigorously promote and develop them for their dual role of developing ethical codes and creating and consolidating extrajudicial dispute resolution systems. Spain's national legislation has positioned itself in a similar way, with Law No. 34/2002 of 11 July on Information Society Services and Electronic Commerce. Its Eighth Final Provision was developed through Royal Decree No. 1163/2005 of 30 September, under which the Public Badge of Online Trust was created for solvent, credible, and effective self-regulation systems in the areas of information society and e-commerce services.

Through this regulatory body, national legislators were marked with a commitment to fomenting instruments of self-regulation, considered complementary and appropriate means for adapting legal demands to the specific characteristics of the sector and resolving any potential disputes via extrajudicial procedures.

The Community legislature continued to focus on self- and co-regulation with Directive 2007/65/EU on audiovisual services (revised by the subsequent Directive 2010/13/EU of 10 March 2010) and Directive 2005/29/EU of 11 May 2005 concerning unfair commercial practices by companies in their relations with consumers, when complementary to the legal traditions of the Member States, both to provide a high level of consumer protection and to add to the overall efficacy of these rules.

Confianza Online was created in Spain in 2003 by the Association for Self-Regulation in Commercial Communications (Autocontrol) and the Spanish Association for the Digital Economy (Adigital), with the utmost respect for existing laws, under an awareness of the importance, and aim to encourage the development of self-regulation systems for new media. To achieve its goals, the Association has a code of conduct that all members must follow, a system for monitoring the application of these rules, and a Seal recognizing fulfilled commitments. The dispute resolution system centers on the actions of two bodies: Autocontrol's Advertising Jury and the National Consumer Arbitration Council and of the Autonomous Communities with whom the Association will have reached an agreement as the first step of mediation carried out by the Adigital Arbitration Council. Autocontrol's Advertising Jury and the Arbitration Councils are the only two Spanish entities recognized by the European Commission as members of the European Extra-Judicial Network (EJN) for meeting the requisites established by the Commission in Recommendation 98/257/EC on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes.

The Code was submitted, both in its initial approval and its revision, for review by the Spanish Data Protection Agency, the Ministry of Industry, Tourism, and Trade, and the National Consumer Institute.

Since the commissioning of Confianza Online, the Code has been recognized as an "Exemplary Code" by the Spanish Data Protection Agency (Resolution CT/0004/2002 of 7 November 2002). Subsequently, on 15 July 2005, the National Consumer Institute, after analyzing the Code of Conduct and verifying that the dispute resolution system met the requisites established in Recommendation 98/257/EC, awarded Confianza Online the "Public Badge" of trust in Information Society services and e-commerce envisaged in Law Information Society Services and E-Commerce Act 34/2002. This was published in the Official Bulletin (BOE) on 25 October 2005. This decision was later endorsed by the Department of Consumer Affairs of the Community of Madrid, which afterwards signed a Collaboration Agreement in November of 2012.

The Code was also favorably reported on by the State Council of Consumers and Users in 2005 and the Consumer Council of the Community of Madrid in 2011.

One of the main reasons for the launch of this comprehensive self-regulation system for e-commerce was that of building trust among consumers. This is why entities that adhere to the system must be able to demonstrate to potential clients that they belong to it. This way the consumer may be informed of the system for protecting user rights and interests that is at his/her service. There must be an accreditation mechanism for adherence to the self-discipline system, which identifies the entities actively committed to its maintenance and development. To properly address this need, an accreditation seal has been set in place, certifying the adherence of a business and its commitment to respect the rules of conduct, which may be accompanied by an evaluation of compliance with the Code of Conduct.

The latest version of the Code offers a revision of the parts of the text aimed at identifying new areas of regulation, mainly of two laws that have substantially altered the system of online sales with the end user and the dissemination of advertising via internet. These are Law No. 3/2014 of 27 March, amending the consolidated text of the General Consumer and User Defense Act and other complementary laws (approved by Royal Decree 1/2007 of 16 November) and Law No. 9/2014 of 9 May on Telecommunications.

Given the dynamic nature of this sector and the rapid and unpredictable evolution of technologies, the rules contained in this Code shall be reviewed regularly to ensure its relevance.

## TITLE I

### DEFINITIONS AND SCOPE

#### Article 1.- Definitions

For the purposes of the present Code, the following are understood to be:

**a) Adigital:** Spanish Association for the Digital Economy. Integrates companies and organizations, or entities, interested in the development of the digital economy to promote and defend their interests.

**b) Advertiser:** an individual or legal entity in whose interest advertising is carried out.

**c) Autocontrol:** Association for the Self-Regulation of Commercial Communications. Its activity is mainly divided into three areas: the processing of claims filed by consumers, consumer associations and businesses; the development of ethical codes and their application by the Advertising Jury; consultation services or Copy Advice, which advises on ethics and legality of campaigns prior to issue. Autocontrol's dispute resolution system is the only private Spanish organization that has been recognized by the European Commission for fulfilling the requisites and principles of independence, transparency, adversarial principle, effectiveness, legality, freedom of choice, and right to representation of the consumer, established in Recommendation 98/257/EC.

**d) Autocontrol Code of Conduct for Advertising:** Ethical rules applicable to all advertising communications activities whose aim is to promote, directly or indirectly, whatever the means employed, the procurement of goods or services, or the strengthening of brands or trademarks, as well as to any private advertisement issued on behalf of an individual or legal entity aimed at promoting certain attitudes or behaviors. Not applicable to political advertisements.

**e) Code of Practice for Advertising of the International Chamber of Commerce:** Through the self-regulation of business, the Code of Practice for Advertising of the International Chamber of Commerce drives forward the highest ethical standards in advertising. It also provides sound business principles for consideration by governments when developing initiatives that affect marketing and consumer protection.

**f) E-commerce:** any economic transaction involving the hiring of products and/or services for payment between a trader and consumer in which the offer made by the trader and its acceptance by the consumer are carried out via an electronic distance communications medium.

**g) Adigital's Mediation Committee:** is the body belonging to the Spanish Association for the Digital Economy (Adigital) responsible for conducting mediations between the consumer claimant and the business filed against when the claim has been formally transferred by Confianza Online's Technical Secretariat. The Committee operates under the rules of the Ethical Code, which outline the claims processing system for those claims relating to electronic transactions made by end consumers.

**h) Confianza Online:** association whose purpose is to encourage and promote the use of a trustmark as an acknowledgement of commitments to self-regulation made by members from the different sectors of the Information Society in which the Association participates, including interactive advertising, purchases and contracts made online or through other electronic distance communications media, personal data protection in advertising and contracts made with consumers, and protection of minors.

**i) Consumer:** for the purposes of contracts made through electronic media, the consumer shall be understood to be any individual or legal entity acting with a purpose unrelated to their commercial, business, craft or professional activity. Consumers will also be legal entities and entities without legal personality acting not for profit in a field unrelated to commercial or business activity.

**j) Personal Data:** Any information concerning identified or identifiable persons shall include personal data, among other types, the personal email address, and the telephone number when this allows for the identification of its owner.

**k) Recipients:** persons reached by advertising or to whom it is directed.

**l) Autocontrol's Advertising Jury:** Independent body responsible for handling claims related to advertisements disseminated in Spain in the 12 months prior to the claim presentation date, which allegedly violate the ethical rules expressed in the Code of Conduct for Advertising and/or any of the current legislation. The Advertising Jury consists of renowned [experts](#) in the fields of law, commercial communications, economy, etc. It carries out its activities according to the principles of independence and transparency.

**m) Electronic Distance Communications Media:** all those that enable the delivery of Information Society services.

Not to be considered electronic distance communications media, for the purposes of this Code, are those which do not satisfy the requirements stated above and, in particular, the following:

- Voice phone, fax or telex,
- Email or other equivalent electronic communications media for purposes unrelated to the economic activity of those who use it,
- Television broadcasting,
- Audiovisual media services, under the terms set out in Directive 2007/65 of the European Parliament and the Council of 11 December 2007 amending Directive [89/552/EC](#) of the Council on the coordination of certain legal, regulatory, and administrative provisions of Member States concerning the practice of television broadcasting activities, known as the Audiovisual Media Services Directive amended by subsequent Directive 2010/13 of 10 March 2010.
- TV teletext.

**n) Minor:** Any individual who has not attained the legal age of 18. Under minor in age, for the purposes of the data protection rules within the framework of this Code, the following shall apply:

- **Child:** Any individual below the age of 14.
- **Teenager:** Any individual whose age is understood to be between 14 and 18 years.

**o) Trader:** individual or legal entity, public or private, who, in the regular exercise of an economic activity, makes an e-commerce offer to a consumer/s.

**p) Advertising:** any communication made by an individual or legal entity, public or private, when carrying out a commercial, craft, or professional activity with the aim of promoting, directly or indirectly, the contracting of personal or real estate property, services, rights, and obligations or with the aim of promoting certain attitudes or behaviors.

Not to be considered advertising for the purposes of this Code are the following:

- Information allowing direct access to the activity of a business, organization, or person, and, in particular, the domain name or email address.
- Commercial communications relating to the goods, services, or image of the company, organization, or person carried out independently, and, in particular, when these are made without economic consideration.
- Editorial content of websites, defined as all that which is not aimed at the promotion, either direct or indirect, of procuring goods, services, rights, or obligations.



This Code does not apply to institutional or political advertising. For these purposes, the term institutional advertising will be understood as laid out in Article 2 of Law No. 29/2005 of 29 December on Institutional Advertising and Communications.

**q) Rules of Procedure of Autocontrol's Advertising Jury:** the rules developed by the Association for the Self-Regulation of Commercial Communications to arrange good governance and functioning of the Advertising Jury in terms of its organization, functions, composition, and resolutions.

**r) Internal Rules:** the set of rules governing the activity of Confianza Online, as a whole, with rules regarding its organization and operation.

**s) Confianza Online's Technical Secretariat:** Body responsible for the handling of inquiries, complaints, and claims made by users as well as the compliance of adhered members with the Ethical Code.

**) Autocontrol Secretariat:** Body responsible for the processing of claims in the areas of advertising and commercial communications.

## Article 2.- Scope

1.- This Code shall apply to matters affecting advertising, e-commerce, and personal data protection, in accordance with the provisions of the relevant sections of this Code, when conducted through electronic distance communications media by individuals or private legal entities established in, or having permanent establishment in, Spain or those established outside Spain, especially in Latin America, having adhered to the same.

For the purposes of this Code, an individual or legal entity shall be considered established in Spain when their residence or registered office is to be found in Spanish territory, provided that these coincide with the place from which they direct and manage their interactive advertising and/or e-commerce activities. It is considered that an individual or legal entity operates from permanent establishment in Spain when it disposes of continuous or regular installations or workplaces, where all or part of their interactive advertising and/or e-commerce activities are carried out, in its territory.

2.- The present Code shall apply to commercial advertising and protection of minors, in accordance with the provisions in the relevant sections of this Code, produced by the Spanish public sector via electronic distance communications media.

The rules of Title III of this Code shall apply to the public sector, whose e-commerce operations with consumers are regulated by private law.

3.- The entities included in the previous sections are subject to the rules of Title IV of the Code concerning data protection in the case of advertising or contractual transactions with consumers via electronic distance communications media, especially the Internet. These rules shall apply when the adhered entity, either as data controller or processor, processes data registered in hardware making them amenable to processing as well as any further use of said data. Files and data processing operations considered thus by the applicable laws shall be exceptions.

4.- The Code shall not apply to technical issues arising from the transmission of the signal, such as web browsing speed or access to electronic communications networks, in electronic contracts with consumers made for the provision of telecommunications services.

5.- All provisions of this Code that are applicable to e-commerce aimed at consumers, and e-commerce among businesses, shall yield to the applicable legal norms in the case of contradiction among these and the rules of this Code.

## **TITLE II**

### **ADVERTISING**

#### **CHAPTER I**

##### **General Rules**

##### **Article 3.- General Principles**

1.- Advertising in electronic distance communications media must be honest and true and comply with the applicable law according to the terms in which these principles have been articulated in the Autocontrol Code of Conduct for Advertising and the Code of Practice for Advertising of the International Chamber of Commerce.

2.- Advertising in electronic distance communications media must abide by the rules set out in the Codes mentioned in the previous paragraph as well as others found in the sectorial Codes stated in Article 8 of the Autocontrol Code of Conduct for Advertising.

3.- Advertising in electronic distance communications media must be done with a sense of social responsibility, and it must never represent a means of abuse of the good faith of its recipients, so as to avoid the erosion of public trust in these media.

4.- Advertising in electronic distance communications media shall not include content that is offensive to the dignity of a person or discriminatory (on the basis of nationality, race, sex, sexual orientation, religious or political beliefs, or any other personal or social circumstance), or which incites unlawful acts.

##### **Article 4.- Identification of Advertiser**

In advertising in electronic distance communications media, the advertiser must be clearly identifiable through the business name or the name of the brand being advertised in such a way that its recipients may recognize and contact them without difficulty. The advertiser must provide permanent, easy, direct, and free access, at least through their website, to their name or company name, legal address, email address and any other information that allows for direct and effective communication with them.

##### **Article 5.- Identifiability of Advertisement**

Advertising in electronic distance communications media shall be easily identifiable as such. Hidden advertising shall not be permitted.

##### **Article 6.- Information to the Recipient**

1.- In addition to the information contained in Article 4 on the identification of the advertiser, the latter must provide recipients with clear and easily accessible information of the kind that may be requested according to current legislation.

2.- Advertisers must provide information about the cost or price of accessing a message or service when greater than the basic telecommunication fees. In cases involving an ongoing connection, recipients must be informed in a clear way of the fees that apply prior to accessing the message or service, and they must be granted a period of time that is both reasonable and sufficient enough to allow for the disconnection from the service without incurring expenses.

3.- Offers must be identified in such a way that the recipient may recognize them as offers. If a direct contractual offer is made or presented in advertising, it must provide the recipient with



clear, complete, and precise information about its content and scope. In any case, the information referred to in Article 16 must be clearly visible to the consumer and must be accurate and liable to testing.

#### **Article 7.- Special Offers**

1.- For the purposes of this Code, all sales promotion techniques that, during a limited period of time, offer recipients an added value representing an economic advantage or any other material or immaterial incentive, will be considered special offers .

2.- Special offers on electronic distance communications media must abide by the principles that correspond to general advertising, especially those of legality, veracity, and good faith, never being a means of abusing the good faith of recipients or exploiting their potential lack of experience or knowledge.

#### **Article 8.- Unfair Competition and Respect for Industrial and Intellectual Property Rights**

1.- Advertising in electronic distance communications media must respect the industrial and intellectual property rights of third parties apart from the advertiser. In particular, on the Internet, introducing hidden names (metanames) into source code that coincide with brands, labels, or the names of businesses or services and whose use and ownership is not authorized.

2.- Advertising in electronic distance communications media must never constitute a means of unfair competition.

## CHAPTER II SPECIAL RULES

### **Article 9.- Advertising Sent Via Email Messages or Other Equivalent Means of Individual Communication.**

1.-The sending of advertising via email or other equivalent means of individual communication by the advertiser will not be permitted when not explicitly requested or authorized by the recipient.

2.-Previous authorization, referred to in the paragraph above, is considered to be such when, at the time data is collected, the recipient has been properly informed of the possibility of being sent advertising through these means and has given their consent. This consent is understood to have been acquired through a procedure of voluntary inclusion (opt-in) lists, though other practices guaranteeing the provision of consent are also acceptable.

0.- Those advertisers using email or other equivalent means of individual communication for advertising purposes must provide clear information to the recipient, through their website or other electronic media, about the possibility of declining to receive further offers by free and simple means, such as calling a telephone number with no additional costs or sending an email. Furthermore, so that recipients may withdraw their consent, advertisers must provide a system that is simple, free, and does not involve any payments to the advertiser or those responsible for processing.

3.-It will not be necessary to give express prior consent detailed in Point 2 of this Article when sending advertising via email or other equivalent means of individual communication if a previous contractual relation between the advertiser and recipient exists and the advertisement relates to goods or services similar to those initially contracted between both parties. In these cases, the advertiser must offer the recipient the option of objecting to receive such advertising messages by means of a free and simple procedure, both at the moment of collecting the data and in each message sent afterward. When the messages are sent through email, a valid email (or other) address must be provided to exercise this right to object.

4.-In every case, advertising messages sent by email or other equivalent means must be clearly identified as such and reveal the identity of the advertiser.

5.-The recipient may withdraw consent for receiving commercial communications at any moment by simply notifying the sender of this wish.

### **Article 10.- Prohibited Practices**

The mass and indiscriminate gathering of email addresses on websites or online services through the use of technology or media (practice known as *harvesting*), as well as the creation of email addresses using random name combinations, letters, and numbers with the hope of producing valid addresses (practice known as *dictionary attacks*) are prohibited.

### **Article 11.- Advertising in Newsgroups, Forums, or Chatrooms and the Like**

1.- Members adhering to this Code must inform users that they are not allowed to use newsgroups, bulletin boards, forums, or chatrooms to send online advertisements, except if in the latter case previous consent was obtained from the moderator of the space; or, alternatively, from the service provider; or if conforming to the rules for admission of advertising established for that group, forum, chatroom, or the like. Adhered entities may suspend, close, or delete the group, forum, chatroom, or similar or the provision of services when they detect or have knowledge of an infringement of these rules.

2.- Forums or chatrooms of a promotional nature are not found in the provisions of this Article.

#### **Article 12.- Online Advertising**

1.- Online advertising may not impede the free browsing of an Internet user.

2.- In particular, the advertising messages received by a user while browsing a website must allow them to leave the advertising message at any time or remove it from their screen, and return to the webpage of origin from which the user first accessed the advertising message.

#### **Article 13.- Sponsorship**

1.- Sponsorship shall mean any contribution made by a public or private entity to the financing of websites or other electronic distance communications services with the aim of promoting their name, brand, image, activities, or products.

2.- Sponsored websites or services must meet the following requirements:

- Editorial content may under no circumstances be influenced by the sponsor in such a way as to affect the editorial responsibility and independence of the owner of the site or service.
- Must be clearly identified as such, and shall include the name, logo, brand, services, or other signs of the sponsor at the beginning or end, or both, of the website or service.

The sponsor may also be identified by the above mentioned means throughout the website as long as this is done sporadically and does not disturb reading.

### **TITLE III E-COMMERCE**

#### **Article 14.- Rule of Law**

Activities of contracting goods or services with consumers performed through electronic distance communications media must comply with current legislation and, in particular, the values, rights, and principles guaranteed in the Constitution.

#### **Article 15.- Obligations Prior to Initiation of Contracting Procedure**

1.-Traders who make commercial transactions with consumers through electronic distance communications media, must provide clear, comprehensible, and unambiguous information about the steps to be followed in the purchase of the good or the contracting of the service offered prior to initiating the procedure of purchasing the good or contracting the service. The same must be provided about the possibility of archiving and making available to the consumer the document which formalizes the contract, the technical means they provide to the user for identifying and correcting errors when entering data or for canceling the contract procedure, as well as the language(s) of the concluded contract when different from that of the information given prior to contracting. This obligation shall be considered met if the trader includes the information on their website.

Nevertheless, when the trader designs their services to be accessed by devices with small screen sizes, the obligation described in the previous paragraph will be considered met if they provide the website where said information is made available to the recipient in a permanent, easy, direct, and exact manner.

Traders are not obliged to provide the previously stated information when the contract is made through the exchange of email messages or other equivalent individual communication media.

2.- Prior to the initiation of the procurement of goods or contracting of services, and subject to the information obligations set out in Article 6 of this Code, the trader must provide the consumer with access, at least through their website, to the general or specific conditions of contracting applicable in each case so that they may consult, store, and/or print them. The trader must also inform the consumer, at least in Spanish, and in a free and visible way, as a minimum, of the following:

- a) Full price, with reference to applicable taxes, as well as the currency, postage, shipping, and where appropriate the increases or reductions and additional service charges for accessories, financing, use of different payment means or other similar payment conditions. If due to the nature of the goods or services, the price may not be reasonably calculated in advance or liable to budgeting, the method of determining the price and additional costs must be stated. If said costs cannot be reasonably calculated, their existence must be mentioned.
- b) The period of the validity of the offer, if a promotional offer.
- c) Terms, conditions, and payment methods, including where appropriate credit options as well as the existence and conditions of deposits or other financial guarantees the consumer has to pay for or provide.
- d) The different delivery or completion methods that may exist for products or services hired as well as, if the case, possible restrictions and/or the date on which the trader commits to deliver the goods or perform its contractual obligations.
- e) Duration of the contract or, if it is indefinite or extended automatically, the conditions for resolution. Basic characteristics allowing for the identification of the goods or services as well as, where appropriate, the conditions required for use in reasonable relation to the goods, services,

and medium used.

f) Existence or non-existence of the right of withdrawal, presenting the conditions and costs for doing so, a model withdrawal form, and the rights of cancelation of or changes to the corresponding product or service. When goods by their nature cannot be returned by post, the cost of return must be stated.

g) Warranties that apply to the purchase of a product or service, including a reminder about the legal warranty pursuant to the goods and conditions of services after purchase.

h) Place and presentation method of possible claims and, when appropriate, the trader's claims processing system, including access to the extrajudicial dispute resolution procedures and the codes of conduct to which the trader is adhered.

i) Name, company name, telephone, fax, contact email address, and address of the trader and, if any, the name, company name, and address of the vendor on whose behalf they are acting.

j) Language or languages in which the contract may be formalized if not the same as for the pre-contracting information.

k) Where applicable, the functionality of the content provided in digital format, including applicable technical protection measures.

l) Where relevant, any interoperability related to digital content with the devices and programs known by the trader or that one may reasonably expect the trader to know of.

3.- When the contracting process allows the procurement of various products or services simultaneously – as in the case of “shopping carts”-, the consumer has the right to view, in the moment immediately preceding the acceptance or provision of consent for acquiring the goods or hiring services, a summary that includes, at least, the list of the products requested or services they wish to contract as well as the basic characteristics allowing their identification, total amount, taxes, and shipping costs where appropriate shipping. The consumer must also be able to store and/or print this summary.

4.-The trader shall collect express consent for any additional costs beyond the payment agreed upon for the main contractual obligation. Details of these additional costs must be presented in a clear and comprehensible way, and the consumer must actively include them; that is, they may not apply in the case of default options to be rejected by the consumer.

5.- Applying together with the previous paragraph, the trader must acquire express consent from the consumer if the order involves a payment obligation, enabling a button or similar function that displays the words “order with payment obligation” or similar, easily-legible and unambiguous formula.

#### **Article 16.- Information Obligations Following Contract Conclusion**

1.-Immediately after the consumer's acceptance of the procurement of goods or contracting of services, the trader must send them an acknowledgement of receipt or provide them with a download or file containing a document certifying the acquisition or contracting performed, containing information about the contract made. However, the trader is not required to confirm the receipt of the offer through an accompanying document if the contract was concluded through an exchange of email messages or other equivalent individual communication media, as long as these media were not used with the sole purpose of avoiding to meet this requirement.

2.-Consumers may request a paper or electronic invoice from the trader, for products or services contracted with them, for no extra cost.

3.- Once the contract has been concluded, the consumer has the right to request information about the delivery status of the good or the rendering of the hired service to the extent that the nature of the good or service hired allows. To this end, the trader must provide

the information on the screen, in email, by telephone, or by other equivalent means.

### **Article 17.- Delivery Dates**

If the trader is unable to send or offer products or services contracted within the delivery period indicated in the contract, at the latest 30 days after the day the consumer notifies of the order, the latter must be informed of this situation and be able to retrieve the amount they paid without undue delay. If the trader indicates a new delivery date, the consumer will have the right to terminate the contract and be reimbursed with the amount of the product or service(s) if paid without undue delay. In the case of undue delay in the repayment of the amounts originally paid, the consumer may demand payment of double the amount due, without prejudice to its right to be compensated for damages suffered in excess of this amount.

### **Article 18.- Withdrawal of Charges and Returns**

1.- The consumer will have a "cooling off" period, which will last at least the amount of time stated in the relevant regulations, and during which they may return the product or service contracted without any penalty. The trader must provide a model withdrawal form and indicate in a clear way if the shipping expenses for returning the product or service contracted are borne by them or if, on the contrary, they must be paid by the consumer. They must also indicate if the consumer is going to be reimbursed in full for the shipping costs of the order they paid for or simply for those of a regular delivery; the potential decrease in value of the goods returned due to poor handling; or if the consumer is not going to be able to recover the proportionate part, or totality of, the service or content already provided; and the rest of the return conditions of the products or services contracted.

1. bis.- The right to withdraw, when exercised for a host contract will result in automatic inefficacy with no extra fees for complementary contracts, except for those established in regulations.

2.- This right to withdraw and return shall not apply to the following: goods whose price depends on fluctuations in the financial market which the seller cannot control; goods made to the consumer's specifications or clearly personalized, or goods liable to deteriorate or expire rapidly; sealed goods which are not suitable to be returned for health or hygiene purposes and which were unsealed after delivery; goods which after their delivery, due to their nature, were inseparably mixed with other goods; alcoholic beverages whose price had been agreed on at the time of the sale and cannot be delivered within 30 days and whose actual value depends on fluctuations in the financial market beyond the control of the vendor; sound or video recordings or software that has been unsealed; the supply of daily press, periodical publications, and magazines, except for subscription contracts for their delivery; contracts for the provision of services whose performance has been completed, with the awareness and consent of the consumer for loss of withdrawal, before the end of the withdrawal period; contracts for the performance of urgent repairs or maintenance except for services or goods additional to the main service requested; contracts concluded at a public auction; the provision of accommodation services other than housing, vehicle rental, transport of goods, food or services leisure-related if those contracts provide for a date or specific execution period; the supplying of digital content which is not supplied through a physical medium when the process began with the consent and express knowledge of the loss of the right to withdrawal; betting and lottery service contracts and all those goods and services for which the applicable regulations provide such an exception.

3.- If a consumer returns a product or previously purchased service in perfect conditions, along with proof of the contract and within the timeframe established in it, and if the vendor offers them a product of equivalent price and quality, the former may choose between reimbursement of the amounts paid and delivery of the product offered as a substitute.

4.- The trader shall establish the necessary systems for facilitating the right of withdrawal and corresponding return of the product or service of the consumer with whom they have made a contract.

5.- The consumer may exercise the right of withdrawal by sending the standard form of general withdrawal or through an unequivocal statement expressing his decision to withdraw from the contract, if and when this is sent before the end of the legally established time period for exercising this right. Subsequently, without undue delay and no later than the maximum period of 14 days after the notification, the consumer or a person authorized by the trader must return the goods, unless the seller offers to pick them up.

6.- Unless the consumer decides otherwise, and without generating extra costs, the trader must reimburse via the payment method used by the consumer, any payment received and, if appropriate, also the costs of regular delivery without undue delay and always within 14 days of the date on which they were informed of the decision to withdraw. If the trader has offered to pick up the returned goods, they may withhold reimbursement until receiving them or until the consumer has supplied proof of the return, depending on which condition is met first.

In the case of undue delay by the trader with regards to the return of sums paid, the consumer may demand to be paid double the original amount due, without prejudice to their right to be compensated for damages incurred in excess of the said amount.

7.- The consumer is responsible for the diminished value of the goods when resulting from the manipulation by them other than what is necessary to establish its nature, its characteristics, or its functioning.

#### **Article 19.- Repair and Replacement**

1.- When the consumer purchases a movable tangible asset, and it does not meet the requirements of the contract, they may choose between repair and replacement of the good (except when one of these options is impossible or disproportionate) or, alternatively, between a price reduction and the termination of the contract, all of which is found in the terms and conditions stated in the law of guarantees for consumer goods and other applicable regulations.

2.- The trader shall remain liable for any nonconformities of the good during the time periods and under the conditions established by law. Similarly, the consumer remains subject to compliance with these requirements and deadlines laid out in the law for the exercise of these rights.

#### **Article 20.- Customer Service**

1.- Traders will make internal customer services available to consumers with whom they have made contracts to answer any questions they may have prior to contracting a good or service and which also tends to the queries or complaints subsequently directed at them. These must be responded to in the shortest possible time frame and always within a maximum of one month from the filing of the complaint.

2.- Traders must provide consumers with clear and sufficient information necessary for contacting the department or person in charge of tending to potential queries or complaints quickly and in a personal and direct way, along with the customer service office hours. If the contact is made by telephone, the cost of the phone line must not include additional costs benefitting the trader.

3.- Traders shall keep a record, on a durable medium, of the complaints made by consumers with whom they have confirmed contracts and the various circumstances connected to each of these complaints. These consumers must be able to acquire the identification code

and proof of their complaint or claim on a durable medium.

#### **Article 21.- Security and Payment Methods**

- 1.- Traders must provide consumers with simple and safe payment methods and make every effort to remain up-to-date with new developments in this field.
- 2.- Traders must adopt appropriate and trustworthy security systems to safeguard the security, integrity, and confidentiality of financial transactions and payments made by consumers. The latter must be informed in the clearest and simplest way possible, prior to entering financial data, of the level of protection applied to them as well as, if relevant, of the use of secure connections (such as SSL or any others).

#### **Article 22.- Public offers of electronic contracts between businesses**

Adhering entities that make public offers of electronic contracts between businesses must follow, to the extent possible, the transparency protocol detailed in Section 3 of Article 3 of Law No. 56/2007 of 28 December on Measures to Promote the Information Society.

In accordance with the provisions of Section 2 of Article 3 of Law No. 56/2007, offers ascribed to this protocol may bear the name of "Transparency Guaranteed Public Offer of Electronic Contracting."

To this end, public offers of contracting between businesses shall be understood as described in Section 1 of Article 3 of Law No. 56/2007.



## **TITLE IV**

### **PROTECTION OF PERSONAL DATA**

#### **Article 23.- General Principles**

1.- Adhering entities that produce advertising or contractual transactions with consumers through electronic distance communications media must abide by the current regulations on matters of personal data protection.

2.- Personal data may only be collected for processing when appropriate, relevant, and not exceeding the scope and specific, explicit and legitimate ends for which they were obtained. Personal data must be accurate and up-to-date, truthfully corresponding to the current situation of the person affected, and only considered accurate when provided by them. If the data is inaccurate or incomplete, it must be corrected or completed within 10 days of this finding, except when the law imposes a different time frame. If data has been shared with a known third party, they must be notified within 10 days so that it may be corrected or deleted in another 10 days. Personal data will be deleted when no longer necessary or relevant for the stated purpose or when solicited by an owner exercising their right to delete and keep it duly locked.

3.- Entities adhering to this Code must respect user privacy as well as assure the confidentiality and security of personal data, utilizing the technical and organizational means necessary to do so, given the technology, the nature of the data, and the risks involved.

4.- Entities adhering to this Code shall support initiatives to help educate the consumer about how to protect their privacy on electronic distance communications media.

5. Entities adhering to this Code shall actively participate in training activities related to data protection organized by entities that promote self-regulation systems. These activities shall take place at least biannually and consist of sessions led by experts in data protection from both the public and private sectors. They should be arranged with particular attention to the needs of small and medium-sized adhered businesses.

#### **Article 24.- Data Collection**

1.- The collection of personal data through fraudulent, unfair, or illegal means is prohibited.

2.- When entities adhering to this Code gather personal data through electronic distance communications media, they must inform the owners beforehand, in an unambiguous and clearly visible way, of the following:

- a) The existence of a personal data file or personal data processing, the purpose of the data collection, and the recipients of the information.
- b) Identification of the data controller in the Spanish Data Protection Agency Registry.
- c) The mandatory or optional nature of responses to queries and the consequences of providing or refusing data.
- d) The option of exercising rights to access, correct, delete, or object.
- e) The identity of the data controller, the address (postal and email), to allow for communication with them.

3.- When personal data have not been obtained from the owner, the origin of the data must be expressly, clearly, and accurately stated, along with the points contained in the previous Section 2, in the 3 months following the recording of the data, unless already provided in advance.

**Article 25.- Processing for Purposes not Included in Contract**

If consent from the party affected is requested during the formation of a contract for purposes not directly related thereto, the party must be allowed to explicitly express their refusal to have their data processed or shared. This may be done through the option of checking a clearly visible box, not marked by default, on the contract itself or through other equivalent processes, such as with an email address or telephone number free of additional costs.

**Article 26.- Processing of Data Obtained from Publicly Available Sources**

When data is obtained from sources available to the public and whose aim is for advertising or marketing purposes, as long as the interested party has not refused or objected to having their data used for said purposes, the owner of the data must be informed in each message of the identity of the party processing it, the purpose for its collection and processing, whether it is obtained from publicly available sources, the entity from which it was obtained, and the rights granted to the owner, indicating before whom they may be exercised.

**Article 27.- Data Processing for Marketing and Advertising Purposes**

1.- Entities that advertise online and collect, capture, and process personal data must inform consumers, through a notice on their website, of this fact. Thus, the consumer may, if they wish to, exercise their right to object, with regards to capture, processing, and transfer of their data, through free and simple means, such as an email address or a telephone number with no extra costs. When the consumer expresses their objection to processing of their data before the adhering entity for advertising or marketing purposes, they must be informed of any common files free of advertising, along with the party responsible, the address and purpose for processing.

2.- Entities adhering to this Code may carry out advertising campaigns themselves or by contracting third parties, the latter being allowed to act as data processors or controllers, depending on whom the entity is that sets identification parameters for the campaign's addressees.

3.- Personal data may only be transferred to third parties when in direct connection with meeting the ends of the transferer and transferee. The consent of the owner, who must be clearly and accurately informed of the purposes or type of activity of the data transferer, is required.

4.- Adhering members may process data for third parties for advertising purposes when informing the affected parties of the specific sectors of activity for which they may receive information or advertising.

5.- Adhering entities who wish to process advertising or marketing-related data shall be obligated, under the terms of the regulations, to consult in advance the common files of those parties who are off limits when sending commercial communications.

**Article 28.- International Data Transfers**

Personal data may only be transferred to parties in countries that provide a comparable level of protection to that of Spain unless the data controller, having adjusted their actions to the strict compliance with the applicable regulations, received prior authorization from the Director of the Spanish Data Protection Agency. This authorization may be requested with reference to Decisions 2001/497/EC of 15 June 2001 and 2002/16/EC of 27 December 2001 concerning transfers to other countries or to the Binding Corporate Rules enacted by the Working Group on Article 29 of Directive 95/46/EC.

**Article 29.- Consent of the Owner**

1.- Consent of the owner is to be understood as any unambiguous, specific, informed, and freely given expression through which the owner consents to the processing of personal data relating to them.

2.-The processing of said personal data shall require the owner's clear consent, except for the following:

- When the data belong to parts of a business-related contract or pre-contract and are necessary for its maintenance and completion.
- When the data are found in a source available to the public and its processing is necessary for the the satisfaction of the legitimate interests of the data controller or the third party with whom the data is shared, provided that the fundamental rights and freedoms of the owner are not violated.
- In cases where the law itself imposes it.

3.- Consent may be withdraw if a valid reason exists, and there are no retroactive effects.

**Article 30.- Exercise of Rights**

1.- Entities adhering to this Code must guarantee that owners may exercise their rights to access, correct, and delete their personal data, as well as the right to object to its processing or transferring. They must be informed through electronic means at their disposition, which are simple, free, and in no case include additional income for the adhering entities (e.g. email and postal address or a telephone number with no additional costs). When one objects to receiving advertising messages through email, the sender of the email must provide an email address or other valid electronic address for communicating their objection.

For these purposes, they may provide model messages for each type of request, indicating the information necessary, documents to be attached, and the means available for sending them.

2.- Member entities shall settle, expressly and within the deadlines set by the regulations, the approval or denial of the request received, indicating the reasons in case of denial. In any case, the response must inform the affected party on their right to seek protection from the supervisory authorities on data protection.

3.- Entities may never use this information for purposes different from those which the owner of the personal data consented to, except when they have been advised in advance of the intent to do so, granting them a period of 30 days and a reasonable way of objecting.

**Article 31.- The Use of Cookies and Similar Mechanisms**

1.- Cookies are small data files generated from instructions sent by web servers to a user's web browser and which are saved in a specific database of the server with the aim of gathering information compiled by the file itself.

2.- Entities adhering to this Code may use storage devices and data recovery on recipient's terminal equipment provided that the latter have expressed their consent after being given clear and complete information about its use; particularly, about the reasons for processing the data, in accordance with the current data protection legislation.

If technically feasible and efficient, the recipient may provide consent to accept data processing using the appropriate browser, or other application settings.

This shall not prevent any potential technical access or storage occurring strictly in order to execute the transmission of a communication through an electronic communications network or, if strictly necessary, through the provision of an Information Society service expressly solicited by the recipient.

3.- Cookies and other technologies must always be used in a dissociated manner from, and never individually linked to the personal data of users, meaning the information obtained may never be associated with an identified or identifiable individual without the consumer's consent. Particularly, when transparent cookies or *pixels* or other comparable technologies are used, users must be provided clear and comprehensible information about their purposes and use unrelated to personal data.

4.- The processing by cookies may be extrapolated by analogy to other technologies that monitor user behavior in their use of electronic distance communications media.

#### **Article 32.- Gathering of Personal Data in Newsgroups, Forums, Chatrooms, and the Like for Advertising Purposes**

Newsgroups, bulletin boards, forums, and chatrooms may not be used to gather data for advertising purposes, except when meeting the standards for data collection established in this Code.

#### **Article 33.- Security and Data Protection**

Members adhering to this Code which act as data controllers or processors must take appropriate security measures to safeguard integrity and confidentiality of the personal data collected, processed and/or stored pledging to make every effort to stay up-to-date on new developments in this field.

In accordance with applicable legislation, adhering members must draw up a security document laying out any internal technical and organizational measures and implement the security measures required for the files and processing they carry out, which are to be classified as low, medium, or high level depending on the sensitivity of the data processed. Consumers must be informed in the clearest and simplest way possible, of the level of protection to be applied to their personal data, and, where appropriate, of the use of secure connections (e.g. SSL and others) when processing their data.

## **TITLE V**

### **PROTECTION OF MINORS**

#### **Article 34.- Advertising and Protection of Minors**

Advertising disseminated via electronic distance communications media shall not cause moral or physical detriment to minors, and shall thus comply with the following:

- a) Must identify content solely intended for adults.
- b) Must never directly encourage minors neither to buy a product or service, abusing their lack of experience or gullibility, nor to persuade their parents or guardians, or parents or guardians of third parties, to purchase products or services in question.
- c) The special trust of children in their parents, guardians, teachers, and other persons must never be abused.
- d) Children must never be, without good reason, placed in dangerous situations.

#### **Article 35.- Contents on Protection of Minors**

1. Adhering entities shall not include illegal content, declarations, or visual presentations on their websites or which may threaten minors physically, mentally, or morally.

2. If adhering members have areas or sections on their websites directed toward adults that may mentally, morally, or physically harm minors, these areas or sections must be correctly identified prior to browsing.

#### **Article 36.- Processing Data of Minors**

1.- To collect data or communicate with minors through electronic communications media, entities adhering to this Code must account for the age, knowledge, and maturity of their target audience. They may never obtain data from a minor relating to the economic situation or privacy of other members of their family.

2.- Entities adhering to this Code must encourage minors to acquire permission from their parents, guardians, or legal representatives before supplying personal data online, and establish mechanisms which reasonably ensure, in accordance with technological developments, that the age of the minor and the authenticity of their consent has been effectively verified. The former is not necessary if the information is requested of teenagers, provided that the terms in which consent was requested are written in a way that is easily understandable by them.

3.- Parents or guardians may object to receiving advertisements or information requested by the minors for which they are responsible, addressing the data controller through a system ensuring their identity to do.

4.- In addition to respecting parental choice to limit the collection of such data online, the entities adhering to this code will limit the use of data provided by minors for the sole purpose of promoting, selling, or delivering products or services objectively safe for minors.

5.- Data pertaining to minors shall in no case be transferred without prior consent from their parents or guardians. This permission is not necessary when the transfer is requested of a teenager, provided the terms in which their consent is requested are written in an easily understandable way to them.

6.- Entities adhering to this Code must offer parents or guardians information about how to protect the privacy of their child or ward online. They must also provide them with mechanisms for exercising their right to access, correct, delete, or identify the purpose of that data.

7.- Entities adhering to this Code shall make every effort to support initiatives that are carried out by other prestigious organizations to help inform parents or guardians of how to protect the privacy of their child or ward online. This shall include information about access control tools and software for parents, which prevent children from sharing their name, address, and other personal data.

#### **Article 37.- Promoting Data Protection for Minors.**

Adhering entities shall make every effort to support initiatives proposed by the sector for the promotion of data protection for minors in advertising activities and electronic contracting as well as for raising awareness in the area, such as the creation of safe browsing systems and spaces, the development of educational websites and guides, and the creation of content filtering and classification systems.

## TITLE VI

### RULES FOR IMPLEMENTATION OF THE CODE

#### **Article 38.- Adherence to the Code: Member Commitments**

1. The membership of adhering entities shall be made public.
2. Entities adhering to this Code have made a commitment to promote and raise awareness of it both in the different business and institutional sectors they deal with and in Spanish society as a whole – especially among users of the Internet and other electronic and interactive media.
3. In addition, adhering entities must acknowledge their adherence to this Code permanently, directly, and in an easily accessible way via electronic media, also providing an option to view it. To satisfy this right to information, and as a sign of their commitment to the rules of this Code, adhering entities must display the Confianza Online Trust Mark in any place visible on their website. They may also do so in other communications (posters, etc.). The Trust Mark included in the website of an adhering entity must be linked to the Confianza Online website, with the aim of offering users easy access to the contents of the Code and the lists of members adhering to it. The option of making a complaint or filing a claim must also be provided. The acquisition and use of the Confianza Online Trust Mark shall conform to the provisions of the Internal Rules. Adhering entities may include the Trust Mark on other elements of communication like brochures or stationary provided they are owned by them.
- 4.- The Confianza Online Trust Mark, considering its main purpose, shall signify a commitment to comply with the ethical rules and an agreement to being monitored by the extrajudicial dispute resolution systems. As such, it may never be used in the following ways:
  - As brand of the user business,
  - As an endorsement or guarantee of the content of products, activities, or services offered by the business or as quality assurance for the products or services offered,
  - As a guarantee of compliance with the legal and ethical requirements.
- 5.- Adherence to the Code involves an automatic link to its extrajudicial dispute resolution system, regulated by Articles 40 onwards.

#### **Article 39.- Adherence to the Code: Adherence Procedure**

1. Entities adhering to the current Ethical Code, by their adherence, agree to respect the rules therein in their advertising, e-commerce, data protection, and protection of minors activity.
2. Entities applying for adherence must submit a self-declaration which states that their activity complies with current Spanish legislation, is in accordance with the appropriate registry for the entity and/or product or service, as well as, if appropriate, the relevant prior permissions for commercial or advertising activities. They must also follow the adherence procedure so that their compliance with the rules of the Ethical Code that apply to them on their websites may be verified, their request to adhere to Confianza Online either to be granted or rejected.
- 3.- The Secretariat may request any necessary documentation from the petitioning entity to confirm their identity as well as any documents or additional clarification necessary for adherence and granting of the Trust Mark. In addition, in those cases in which in order to carry out the activities of the petitioning entity a prior official authorization or registration shall be required in Spain, the Association request application for such accreditation as a requirement for adherence.

4.- The Technical Secretariat is in charge of sending a verification report on the level of conformity to the provisions of Article 39.2 within the time frame of approximately 15 days. To be included in this report are the corrective measures for those elements which do not meet the criteria of the Ethical Code.

5.- Entities in the process of adhering will be granted no more than three months to make the changes stated in the report mentioned. Once this time has lapsed, the Technical Secretariat will verify these modifications, sending a new verification report, which if satisfactory will allow for the use of the Confianza Online Trust Mark by said entity.

6.- Once adherence is allowed by the Admissions Committee, the Technical Secretariat will inform the petitioning entity of the decision and entrust them with the Confianza Online Trust Mark.

7.- If the Trust Mark has been granted, an annual verification of the entity's compliance, and that of their websites, with the Code shall be carried out. Also, the Association shall reserve the right to perform random checks on the degree of adherence by websites to the Ethical Code.

8.- The initial, annual, and random evaluations and checks, encompassed in Articles 39.4 and 39.7 shall be made with the aim of internal monitoring and may not be used for the accreditation, auditing, or verification of conformity to legal or ethical rules applicable to websites of adhering entities.

#### **Article 40.- Adherence to the Code: Extrajudicial Dispute Resolution System**

1. Entities adhering to this Code also adhere to the Confianza Online Association and are subject to its extrajudicial dispute resolution system regulated under Articles 41 and onward.

3. The extrajudicial dispute resolution system is enforced by two different organizations, depending on the nature of the claim:

- Claims about advertising activity performed through electronic distance communications media detailed in Title II, data protection in advertising activity, and protection of minors fall under the jurisdiction of Autocontrol's Advertising Jury.
- Claims regarding contractual e-commerce transactions with consumers described in Title III and data protection in the same area fall under the jurisdiction of Adigital's Mediation Committee.
- Adhering entities are subject to any extrajudicial dispute resolution organization determined in the rest of the areas addressed in this Code.

4. Entities who are members of Confianza Online agree to abide by and strictly and immediately comply with the content of mediated agreements made by Adigital's Mediation Committee and Autocontrol's Advertising Jury; as well as resolutions by the latter and, in certain cases, the consumer arbitration system or any other extrajudicial dispute resolution body mandated for handling claims filed in connection with this Code.

#### **Article 41. – Claims Processed by the Extrajudicial Dispute Resolution System**

1. All those claims for the alleged infraction of rules laid out in the current Code shall be filed through Confianza Online's Technical Secretariat. Mechanisms for filing online shall be made available, and resolutions must be published on the Association's website.

The Technical Secretariat is located in Madrid at the main offices of Confianza Online.



2. Filing and processing of claims shall be free of charge for consumers.

3. For a claim to be processed, the claimant must submit a letter containing the information, purpose, and request of the claim together with a copy of their valid and current ID and of the commercial contract and/or communication that was made via electronic distance communications media.

4. When the claim is admitted for processing, the Secretariat will transfer it to the either Adigital's Mediation Committee or Autocontrol's Secretariat, depending on the nature of the dispute.

5. Previously settled claims or those in the midst of a judicial or administrative proceeding will not be accepted for processing.

6. The processing of claims for the alleged breach of the rules of the Code on e-commerce with consumers and on data protection in cases of e-commerce activities shall abide by the following rules:

- Claims may be filed by individuals or legal entities who act as consumers having contracted goods or services through electronic distance communications media. They may file claims against individuals or legal entities, either members or not of Confianza Online, with permanent establishment in Spanish territory or, if lacking thereof, adhered to this Code.

- In those cases where the claim concerns an alleged infraction and the existing legislation requires the consumer to consult with the internal claims services of the company prior to filing a claim through official channels, the Technical Secretariat shall send the claim to those services and suspend processing of the claim until the period provided by law for resolving claims has expired. If this period has expired without a solution having been reached between all parties the Technical Secretariat will recommence the process provided for in this Code, at the request of the interested party.

- Once Adigital's Mediation Committee has received the claim, the mediation process will begin. All parties will be invited to reach an agreement within 7 business days.

Notifications will be sent to the consumer, informing them of the imminent commencement of the mediation process.

If an agreement is not reached and the claimant makes a prior request, the Secretariat will transfer the claim to either the National Consumer Arbitration Council or the Regional Consumer Arbitration Council, depending on the case. The Regional Arbitration Council, formed in accordance with Royal Decree 231/2008, with which the self-regulation system has a formal agreement, shall have jurisdiction in cases where the claimant is a resident of said autonomous region and the company is directly affiliated with that Regional Arbitration Council. For all other cases, such as when the settlement of a dispute affects the rights and interests of consumers who are residents in more than one autonomous region, the arbitration phase shall take place before the National Consumer Arbitration Council. The Arbitration Council that receives the claim shall act in accordance with the applicable rules.

- All parties shall be informed of the mediation agreements and arbitral awards granted by Adigital's Mediation Committee for compliance, and these will be published on the Confianza Online website.

0. The processing of claims for the alleged violation of the rules of the Code concerning commercial communications and protection of minors, including those which may arise between businesses and those related to data protection when involving the aforementioned areas, shall be carried out in conformity with the following rules:

- Any individual, legal entity, business, business association, professional association, individual consumer, consumer association, professional consumer, public administration, or any third party with a legitimate interest may file a claim. They may file claims against advertisers if these are individuals or legal entities with permanent establishment in Spanish territory or if affiliated with the self-regulation system.
- The Autocontrol Secretariat shall process claims received in accordance with the Advertising Jury's Rules of Procedure. Autocontrol's Secretariat shall request arguments and evidence of the party filed against, or respondent. The respondent must respond within 5 business days; during this 5-day period, the dispute may be settled through mediation by Autocontrol or by acceptance of the claimant. If this period passes with no mediation or agreement, the corresponding section of the Advertising Jury will announce its decision through a Resolution that may be challenged by appealing to the Plenary Session of the Advertising Jury.
- All parties shall be notified of the mediation agreements and Resolutions pronounced by the Advertising Jury for their compliance, and they will also be published on the Confianza Online website.

#### **Article 42.- Monitoring Compliance with the Code**

1. This Code establishes mechanisms for monitoring the level of member compliance with the obligations of its text, notwithstanding the inspection, monitoring, and verification activities carried out by public administrations, in those practices which may be object of administrative infraction.

2. Failure to meet the following requirements may result in expulsion from Confianza Online:

- a) Payment of fee that corresponds to party membership
- b) Compliance with requirements for membership and subsequent granting of the Trust Mark
- c) Compliance with the conditions for use of the Trust Mark
- d) Submission to the extrajudicial dispute resolution bodies of the Association
- e) Compliance with the decisions of the dispute resolution bodies of the Association and the mediation agreements reached
- f) Compliance with the rules governing the Association
- g) Repeated or significant breaches of the existing laws or Code discerned by the claims resolution bodies.

If the Technical Secretariat becomes aware of a breach of one of these reasons for expulsion, the adhered entity will be informed of the situation, urged to remedy or, where appropriate, present any arguments they may consider necessary within 15 business days.

Continuous evaluation to check the compliance of member entities with their obligations through the claims monitoring procedures of independent extrajudicial dispute resolution bodies.

If within a period of 15 working days the reason for expulsion continues to be present, and depending on the seriousness of the breach, one of the following measures is proposed:

- a) A warning
- b) Lifting of charges that the adhered member represented may carry within the Association and elimination of the possibility to submit them.

- c) Suspension of the use of the Confianza Online Trust Mark for a period of between 1 and 5 years.
- d) Suspension of the condition of adhered member of Confianza Online for a maximum period of between 1 and 5 years.
- e) Expulsion from Confianza Online.

FINAL

## TITLE VIII

### COOPERATION WITH AUTHORITIES

**Article 43.-** Entities that carry out advertising, e-commerce via electronic distance communications media, or activities related to any other areas referred to in this Code, must cooperate with the competent authorities as well as provide any relevant information to which they may have had access and which deals with alleged criminal activity on the Internet (pornographic content relating to minors, promotion or illegal trade of drugs, pimping, or others punishable under the Spanish Penal Code).

### ADDITIONAL PROVISION

Further rules for implementing this Code in those specific matters concerning interactive advertising, electronic contracting, protection of minors, personal data protection, if so required, may be developed as sectoral annexes.

### FINAL PROVISION

This Code, which repeals the previous text of 13 October 2013, shall be subject to periodic review at least every four years with the aim of keeping it up-to-date with societal and technological changes and well as legislative developments in matters regulated by it.

### SECTORAL ANNEX – STANDARD CLAUSES AND DATA PROTECTION MODELS

1. Adhered entities may use the following standard clause to obtain the consent of parties affected by data processing:

"We inform you that the information you have provided us with will be included in the file of the entity \_\_\_\_ with address \_\_\_\_ for the processing of your request and sending of commercial messages about our products through any form of communication unless otherwise indicated by checking this box O. You may exercise your rights to access, correct, delete, or object by sending a letter to the address indicated or \_\_\_\_@\_\_\_\_. (Information to be included in the data protection policy when storage or data retrieval devices are used on terminal equipment: To use our website it is necessary to use cookies. Cookies are used to/for (describe the purpose for the use of cookies). If you wish, you may configure your browser to show a warning on your screen when cookies are received and to prevent their installation on your hard drive. Please consult your browser's instructions and manuals for further information)"

2. Adhered entities may use the following standard clause to inform affected parties of data processing if the data is not obtained from them directly:

("Your data has been obtained from publicly available sources (specify which) and will be included and processed in the file (indicate name), whose purpose is (describe). The body responsible for the file is (indicate), and the address where interested parties may exercise their rights to access, correct, delete, cancel, and object before this body is \_\_\_\_\_, all of which are reported in accordance with Article 5 of Organic Law No. 15/1999 of 13 December on Personal Data Protection."

3. Adhered entities may use the following models for the exercise by affected parties of their rights to access, correct, delete, and object:

## 1. MODEL FOR THE EXERCISE OF THE RIGHT TO ACCESS

### Files and Responsible Party

Name

Responsible Party

Address

City and Postal Code

Province

List of Files to Which Access is Requested

### Applicant Information (attach photocopy of ID)

Mrs./Ms./Mr.

Valid ID

Address for Receiving Notifications

### Legal Representative in the Case of Minors or Ineptitude (attach photocopy of ID)

Mrs./Ms./Mr.

Valid ID

### Requests

That the personal information found in the indicated file(s), along with information about its processing, in accordance with the right to access enforced by Article 15 of Organic Law No. 15/1999 and in Articles 27 and onward of Royal Decree 1720/2007 of 21 December, which approves the standards for implementing the Law, be sent.

That this information is provided, wherever practically possible:

By email (enter address)

By written letter, copy, or photocopy sent by post,

In person, through screen view (assumes would have to travel to main offices of responsible body)

Fax (enter fax number)

Other

At \_\_\_\_\_, on \_\_\_\_ of \_\_\_\_\_ 20 \_\_\_\_

Applicant's Signature

## 2. MODEL FOR THE EXERCISE OF THE RIGHT TO CORRECTION

### Files and Party Responsible

Name

Responsible Party

Address

City and Postal Code

Province

List of Files for Which Correction is Requested

Correction requested

### Applicant Information (attach photocopy of ID)

Mrs./Ms./Mr.

Valid ID

Address for Receiving Notifications

### Legal Representative in the Case of Minors or Ineptitude (attach photocopy of ID)

Mrs./Ms./Mr.

Valid ID

### Requests

That erroneous information regarding my person found in the indicated file(s) be corrected, in accordance with Article 16 of Organic Law 15/1999 and Articles 31 and onward of Royal Decree 1720/2007 of 21 December, which approves the standards for implementing the Law.

Supporting documents for correction attached

Other (specify)

At \_\_\_\_\_, on \_\_\_\_\_ of \_\_\_\_\_ 20\_\_

Applicant's signature

### 3. MODEL FOR THE EXERCISE OF THE RIGHT TO DELETE

#### Files and Party Responsible

Name

Responsible Party

Address

City and Postal Code

Province

List of Files for Which Deletion is Requested

#### Applicant Information (attach photocopy of ID)

Mrs./Ms./Mr.

Valid ID

Address for Receiving Notifications

#### Legal Representative in the Case of Minors or Ineptitude (attach photocopy of ID)

Mrs./Ms./Mr.

Valid ID

#### Requests

That any information regarding my person found in the indicated file(s) be deleted, in accordance with Article 16 of Organic Law No. 15/1999 and in Articles 31 onwards of Royal Decree 1720/2007 of 21 December, which approves the standards for implementing the Law.

Supporting documents for deletion attached.

Previously granted consent is withdrawn, without additional documentation. Other (specify)

At \_\_\_\_\_, on \_\_\_\_\_ - of \_\_\_\_\_ 20 \_\_\_\_

Applicant's Signature

#### 4. MODEL FOR THE EXERCISE OF THE RIGHT TO OBJECT

##### Files and Party Responsible

Name

Responsible Party

Address

City and Postal Code

Province

List of Files for Which Objection is Requested

##### Applicant Information (attach photocopy of ID)

Mrs./Ms./Mr.

Valid ID

Address for Receiving Notifications

##### Legal Representative in the Case of Minors or Ineptitude (attach photocopy of ID)

Mrs./Ms./Mr.

Valid ID

##### Requests

That any information regarding my person found in the indicated file(s) be excluded from processing, in accordance with the right to object to data processing described in Articles 6 and 17 of Organic Law No. 15/1999 and Articles 34 and onwards of Royal Decree 1720/2007 of 21 December, which approves the standards for implementation of the Law.

Proof of founded and legitimate reasons, concerning a specific personal situation of the affected party (this documentation is not necessary if the request is to object to receiving advertising).

Other (specify)

At \_\_\_\_\_, on \_\_\_\_ - of \_\_\_\_\_ 20 \_\_\_\_

Applicant's Signature



4. Finally, if adhered entities contract with a personal data processing service provider, they may use the following standard clause models for compliance with the formal requisites demanded:

"That (ADHERED ENTITY) provide the PROCESSOR with files containing personal information belonging to them so that professional services may be provided.

The PROCESSOR agrees to process data strictly following the instructions of (ADHERED ENTITY) without using it for any purpose other than stated in the current contract or in the instructions received from (ADHERED ENTITY) during the implementation of the contract. In no event shall data be communicated to a third party nor will services described in the current contract be subcontracted to any third party, unless acting in name and on behalf of (ADHERED ENTITY)

The PROCESSOR is obliged to implement the security measures for data they process imposed by the existing regulations, at all times, in their computer systems. Specifically, it shall be mandatory to implement the measures found in Royal Decree 1720/2007 of 21 December, which approves the standards for implementation of Organic Law No. 5/1999 of 13 December on Personal Data Protection.

Once the contract is finished the PROCESSOR must return the personal data to the responsible party and destroy all copies of this information they may hold, regardless of the medium on which they are found."

#### **ANNEX – RULES FOR APPLICATION OF THE CONFIANZA ONLINE ETHICAL CODE**

Included in this Code are Chapters I, II and III of Title II, as well as Title V of the Internal Rules of Procedure, which, respectively, enforce the adherence procedure for Confianza Online, the conditions for use of the Confianza Online Trust Mark, the loss of adhered member status, and the dispute resolution system of the Confianza Online Ethical Code.

## 5. CaseTrust

[Note: CaseTrust runs an accreditation scheme for physical stores involved in B2C transactions, and provides different information and application kits (InfoKits) on its accreditation scheme based on the type of business (e.g. hair and cosmetology, motoring and general storefront). The accreditation requirements across different InfoKits may vary. CaseTrust does not certify e-shops but its InfoKits are illustrative of the typical requirements imposed for accreditation of physical B2C transactions, a majority of which may also be applicable to e-commerce B2C transactions. Below is an extract of the CaseTrust accreditation criteria set out in the InfoKit for 'Storefronts' – i.e. businesses in the general retail and service sector.]

### CaseTrust Criteria for Storefront Businesses

The full criteria checklist, incorporating assessment elements and document checklists, will be made available to businesses upon submission of the CaseTrust application form and application fee.

Policies	
Goods & Services	
<b>A1</b>	My business offers goods and services of satisfactory quality as defined in the Sales of Goods Act S14 (2), Consumer Protection (Fair Trading) Act and Lemon Law.
Terms & Conditions of Sales	
<b>A2</b>	My business clearly states the terms and conditions of any warranties or service guarantees to protect customers against product defects and non-performance.
<b>A3</b>	My business has an exchange and refund policy clearly stipulating the time frame and conditions for any exchange and refund.
<b>A4</b>	My business clearly states the terms and conditions for any deposits paid should the transaction be cancelled.
<b>A5</b>	My business clearly states the terms and conditions applicable to the redemption of vouchers.
Pricing & Payment	
<b>A6</b>	My business is committed to display discounted prices clearly.
<b>A7</b>	My business clearly states the payment methods and channels available to customers.
<b>A8</b>	My business is committed to avoid over or under-charging and to ensure correct change is given.
<b>A9</b>	My business clearly states any delivery and/or shipping charges incurred.
<b>A10</b>	My business clearly states any additional charges for extra services such as alterations, repairs, gift- wrapping and express delivery.
Security	
<b>A11</b>	My business is committed to maintain the confidentiality of customer data.

## Communication

### External Communication

<b>B1</b>	My business provides effective mode(s) of communication for customers.
<b>B2</b>	My business has a system in place to inform CaseTrust in writing of any change 7 days before implementation; including policies, ACRA business profile, ownership of the business, contact person for CaseTrust, addition/cessation of branches, change of business contacts information etc.

### Advertising & Promotion

<b>B3</b>	<u>Accuracy of Information</u> My business ensures that all goods and services are accurately described and portrayed in all marketing communications.
<b>B4</b>	<u>Adequacy of Information</u> My business ensures that its marketing communications include sufficient details on prices, quality, availability and terms of sales.
<b>B5</b>	My business sells what is advertised and promoted.
<b>B6</b>	My business maintains a sufficient stocks for all promotional items.
<b>B7</b>	My business clearly states the period for which promotions are valid.
<b>B8</b>	My business clearly spells out details of the mechanism for any lucky draw, free merchandise/service, and/or contest.

## Practices & Systems

### Retailing

<b>C1</b>	<u>Deposit/Reservations</u> a. My business provides customers with receipts to acknowledge payment of deposits or reservation charges. b. Receipts for deposits and reservations have full detailed information.
<b>C2</b>	<u>Proof of Purchase</u> a. My business issues receipt/ sale slips to customer with details of the purchases of the goods/ services provided. b. The receipt and sales slip reflect relevant detailed information.
<b>C3</b>	<u>Exchange and Refund</u> My business honours our exchange and refund policies promptly within the stipulated time frame and conditions.

<b>C4</b>	<u>Delivery</u> a. My business provides delivery forms. b. Delivery forms show full detailed information. My business gets customer's signature acknowledging receipt of delivery. A copy of the delivery form is given to the customer. c. My business keeps customer updated on the status of their deliveries should the need arise.
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#### Feedback Management

<b>C5</b>	My business has a system to document complaint cases and has a complaints resolution procedure.
<b>C6</b>	My business informs complainants of the status of the complaint investigation.
<b>C7</b>	My business resolves complaints within a maximum of 21 days upon receipt of complaint.
<b>C8</b>	My business informs customers of alternative forms of redress should the business be unable to resolve the complaint within the time frame, E.g. CASE Mediation Centre.

#### Security

<b>C9</b>	My business has a system to keep all customers' particulars confidential.
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#### Goods & Services

<b>C10</b>	My business has a system for ensuring the quality of products and services offered for sale. Goods and services offered are fit for consumption and not past expiry date.
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## Personnel

#### Performance

<b>D1</b>	My business ensures that customer support and service staff do not practice any unethical sales tactics.
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#### Knowledge

<b>D2</b>	My business ensures staff is able to provide accurate, timely and comprehensive product and service information to customers and to perform service to the expected levels.
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**ANNEX C – Consumer Protection, E-Commerce  
And Data Protection Laws In ASEAN**

ASEAN Member State	General consumer protection law	E-commerce law	Data protection law
Brunei Darussalam	Consumer Protection (Fair Trading) Order, 2011 (CPFTO)	Electronic Transactions Act 2001 (amended in 2008).	New law in progress
Cambodia	Law on Consumer Protection, 2019	Law on E-Commerce, 2019	New law in progress
Indonesia	<ul style="list-style-type: none"> <li>- Law No. 8 of 1999 on Consumer Protection</li> <li>- Law No. 7/2014 regarding Trade, amended by Law No. 11/2020</li> </ul>	<ul style="list-style-type: none"> <li>- Law No. 11/2008 regarding Electronic Information and Transactions, amended by Law No. 19/2016</li> <li>- Government Regulation No. 71/2019 the Implementation of Electronic Systems and Transactions</li> <li>- Government Regulation No. 80/2019 regarding Trade Through Electronic Systems/ E-Commerce</li> <li>- Minister of Trade Regulation No. 50 of 2020 on Provisions on Electronic Systems Trading Business Licencing and Advertising, and Guidance and Supervision of Business Actors</li> </ul>	<ul style="list-style-type: none"> <li>- Law No. 11/2008 regarding Electronic Information and Transactions, amended by Law No. 19/2016</li> <li>- A draft of law regarding the Protection on Data Privacy is under discussion between the Government and Parliament.</li> </ul>
Lao PDR	Law on Consumer Protection, 2010	<p>Electronic Transactions Law, 2013</p> <p>Decree on E-Commerce No. 296/GOV, 2021</p>	<p>Law on Protection of Electronic Data (2017)</p> <p>Law on Prevention and Combating Cyber Crime (2015)</p>
Malaysia	Consumer Protection Act (CPA) 1999	Electronic Commerce Act 2006	Personal Data Protection Act 2010
Myanmar	Consumer Protection Law 2014 of the Union of Myanmar	Electronic Transaction Law 2004	No specific data protection laws.

			However, the Constitution of the Republic of the Union of Myanmar 2008 and Protecting the Privacy and Security of Citizens (Union Parliament Law 5/2017) protect privacy and security of communications.
Philippines	Consumer Act, 1992 (Republic Act No. 7394)	E-Commerce Law of 2000	Data Privacy Act, 2012
Singapore	Consumer Protection (Fair Trading) Act (Cap. 52A)	Electronic Transactions Act (Cap. 88)  Electronic Transactions (Certification Authority) Regulations 2010	Personal Data Protection Act 2012
Thailand	Consumer Protection Act 1979 (CPA)	No standalone legislation yet	Personal Data Protection Act 2019
Vietnam	Law on Protection of Consumer Rights 2010	Information Technology Law of 2006  Electronic Communication Law of 2005	New law in progress

**Annex D - Table of Comments from AMS and Responses****Indonesia**

<b>S/N</b>	<b>AMS's Comment/Query</b>	<b>R&amp;T's Comment</b>
1.	Provided amendments to Annex C in respect of Indonesia's regulations	We have replaced Annex C accordingly. We have also amended para 4.2.1.5(ii) of the Report to include a brief description of GR 80.
2.	<p>1. Regarding the scheme's requirements/code of conduct and the cost of compliance since we have to ensure that this scheme is inclusive and able to create equal playing of field among MSMEs (especially Micro and Small enterprises) in ASEAN.</p> <p>2. Since this scheme is heavily focused on MSME, we must encourage the participation of the private sector (especially the representative of Micro and Small Enterprises) in the dialogues session, so the scheme will correspond to MSMEs' perspectives.</p>	<p>1. Noted. This is addressed at paragraph 5.6.2 but we have expanded the write-up to emphasize this point.</p> <p>2. Noted. This is addressed at paragraph 6.2.6 but we have expanded the write-up to emphasize this point.</p>

**Thailand**

<b>S/N</b>	<b>AMS's Comment/Query</b>	<b>R&amp;T's Comment</b>
1.	The report stated that Thailand is the only AMS that does not have E-Commerce legislation. Therefore, It would be really appreciated if you could elaborate more on the definition of "E-Commerce Law".	<p>The statement that Thailand does not have e-commerce legislation was taken from Handbook on ASEAN Consumer Protection Laws and Regulations dated June 2018, which stated at page 65 that Thailand does not have any standalone legislation for e-commerce.</p> <p>However, we note that Thailand does have an Electronic Transactions Act (ETA), which has been considered an e-commerce legislation by some countries.</p> <p>Please let us know if you would like us to amend the statement accordingly.</p>
2.	<p>Apart from the Trustmark Program by DITP. Thailand also has the trustmark system under the Department of Business Development (DBD) which focuses on e-commerce registration. The consultants could find more details regarding this program on the website <a href="https://www.trustmarkthai.com/en">https://www.trustmarkthai.com/en</a>. Moreover, we also provide brief information about the program attached with this email.</p>	Thank you for the further information. We have amended paragraph 4.2.1.5 (vii) of the Report accordingly.

## Vietnam

S/N	AMS's Comment/Query	R&T's Comment
1.	As on the section 1.3 it highlights that <b>“by awarding ASEAN Trust Mark to e-commerce companies ... consumer confidence towards the companies will be strengthened, leading to the willingness of consumers in making transactions in awarded companies”</b> . On the other hand, on the section 1.5 it says, <b>“To ensure consistency and to promote the vision of ASEAN cross-border e-commerce”</b> . Thus, we want to seek for the clarification on the scope of the Trust Mark on this Study, which will be the exact/specific area in E-transtraction/E-commerce will be awarded this trust mark? Whether it is consumer confidence, cross-border e-commerce, goods, and services or it just a general guidelines/study for the trust mark in ASEAN?	The Trust Mark is to be awarded to e-commerce actors that meet a certain set of standards, which is designed to increase consumer confidence towards the companies and increase their willing to purchase from that e-commerce actor. Having an ASEAN-wide Trust Mark will in turn boost e-commerce within each AMS and on an ASEAN cross-border basis.
2.	For the Section 5.2 <b>“The ASEAN Trust Mark Scheme must cater to the SMEs, including small retail owners”</b> . We want to seek for the clarification whether this Study will cover the Micro business? As the Micro businesses account for a large portion of the total business in ASEAN?	Yes, the intention is to cover Micro businesses, per the TOR. We have amended all references of SME to Micro, Small and Medium Enterprises ( <b>“MSMEs”</b> ) accordingly.
3.	We want to seek for the clarification for the term “Essential Elements” on page 51, whether it implies the criteria set out on page 50 Section 5.8.3 “These Guidelines will contain at least the criteria as set out in Table 5, as follows”	Yes, the Essential Elements/Trust Mark criteria (hereinafter, the latter term will be used) refer to the recommended Trust Mark Scheme Criteria. We have amended the title of the Table accordingly for clarity.
4.	We want to provide clarification on the Vietnam's Safeweb to avoid misunderstanding that may occur. Currently, the Viet Nam's safeweb is just a pilot project deployed and developed by Ecom Viet, or in other words Viet Nam has not had an official trust mark schemes yet at the moment.	Noted, we have clarified this in paragraph 4.2.1.5 (viii) and in Annex A.

## Singapore

S/N	Para number in report reviewed by AMS	AMS's Comment/Query	R&T's Comment
1.	Abstract	The Study recommends that the scheme be operationalised as a dual-layered accreditation scheme. Given that accreditation is involved, ACCEC	We have inserted this comment as footnote 2 for ACCEC's



		may want to consider consulting ACCSQ DTSCWG and ACCSQ WG2 that looks at accreditation.	consideration (note: now removed, see S/N 20 below).
2.	Exec Summary	We could also consider adding a criterion on <b>logistics, last mile delivery and customs</b> , which are pertinent issues in cross-border trade, as well as <b>“customers experience” – product ratings, user interface &amp; customer support</b> .	We have inserted this comment as footnote 2 for further consideration. Our preliminary view is that that product ratings could be covered under our existing criterion on allowing for easy feedback / reviews to be provided by consumers. We also take the preliminary view that user interface and strength of customer support can be subject and difficult to assess. Regarding logistics, this may not be reasonably within the e-shop’s control in some AMS.
3.	Exec Summary	We seek further details on this proposed [parallel accreditation] mechanism, e.g. how will the strength of the scheme be determined from the basket of relevant national legislation amongst AMS?	Please note that following further discussions with ASEC, the parallel accreditation mechanism has been removed.
4.	1.4	We seek clarification on if a landscape study has been done with regards to legislation on e-commerce in the issues stated.	We have not done a landscape study but have done a brief comparison of the e-commerce legislation in each AMS based on the Handbook on ASEAN Consumer Protection Laws and Regulations dated June 2018.
5.	2.2.4	Suggest that it might be worthwhile to expand more on this point so as to lay out compelling reasons for a regional Trust Mark scheme. We note that in other reports, e-commerce is set to grow even further ( <i>e-Conomy SEA 2019 Report, Google, Temasek, and Bain</i> ). Has the research surfaced past instances where ASEAN consumers are deterred from making purchases because there is a lack of such a scheme? What does the research show with reference to where the lack of a Trust Mark ranks in terms of barriers to ecommerce in the region? Perhaps we could also consider conducting a business survey to test the appetite of the private sector for such as scheme.	Please see our proposed changes to paragraph 2.2 (in particular 2.2.1 and 2.2.8) of the Report to address your comment.

6.	2.2.5	It would be important that the Trust Mark does not act as an additional direct or disguised restriction to trade and economic activity.	Please see our proposed changes to para 2.2.7 of the Report to address your comment.
7.	2.3.3	We seek clarity on if this depends on whether the AMS has legal compliance laws for e-commerce players and whether ASEAN has the legal basis to implement such a regional mark.	Please note that we have removed the parallel accreditation mechanism and requirement for AMS to have national trust marks.
8.	4.2.1.2	For Singapore, the Data Protection Trust Mark is not specific to traditional brick-and-mortar outlets rather than for e-commerce.	We have amended para 4.2.1.2 of the Report accordingly.
9.	4.2.1.5 (c)	Singapore does not have an e-commerce trust mark at the moment. TrustSG was developed by then-IDA back in 2001 and has since been sunset.	We have amended the paragraph accordingly.
10.	4.2.2.6	We seek clarity on who conducts such independent audits as there may be opportunities to leverage accredited certification bodies if the scheme were to be implemented.	The reference to independent audits does not necessarily refer to third-party audits but rather accreditation as opposed to self-declaration of or commitment to compliance by the e-shop. We have clarified this in footnote 36.
11.	4.2.3.4	We request for more info on Safe.Shop given that it is a global ecommerce trust mark. How well recognised is the mark when it was in operation? What are the requirements that companies have to meet to get the mark? Why was it sold and what were some of the challenges faced? This would help ASEAN to make an informed decision on the feasibility of a regional mark.	We have inserted several footnotes in relation to Safe.Shop to address some of your queries, based on publicly available information. We are unable to assess how well recognised the mark was when it was in operation.
12.	Figure 1	CASE no longer administers voluntary E-commerce Trust Mark schemes i.e. TrustSg. CaseTrust focuses on retail businesses in specific sectors.	We have amended the table accordingly. We have also removed the example of TrustSg under Table 3 since it is no longer in operation.
13.	5.2.1	Is the recommendation for the Trust Mark Scheme to be covered for both brick-and-mortar and e-commerce shops?	Our Study is specific to e-commerce Trust Marks. The reference to brick-and-mortar is just to

			clarify that enhanced protection is just as important, if not more important, for e-commerce businesses. We have clarified para 5.2.1 of the Report accordingly.
14.	5.3.4	We seek clarification on whether a DP will be driving this, and the source of funding for the marketing and publicity plans should it be operationalised. If left to individual AMS, the level of marketing may be disparate.	We have amended para 4.4.1.2 to address your comment and inserted a footnote to highlight your comment for ACCEC's consideration (note: now removed, see S/N 23 below).
15.	5.4.3	Would AMS be able to opt out of the scheme? What would be the implication of opting out?	Further to our discussions with ASEC, the Scheme will be voluntary for AMS, thus the repercussions will be economic – e.g. disadvantage to e-shops in the non-participating AMS.
16.	5.5.4	We seek confirmation if the membership fee is scaled according to the size of the trader, and consistent across AMS? Would there be a situation where a trader operating in several AMS concurrently choose to be certified in the country with the lowest cost, and used across the whole of ASEAN? We would also be interested to know if there is an estimation (based on research) on how much this would cost for the businesses.	We have amended para 5.5.2 of the Report to suggest considering applying the same membership fees across all AMS to avoid arbitrage.
17.	5.7	We would like to seek clarification on whether such non-compliance is surfaced on a reactive basis or if the national body will have to proactively monitor to ensure complicity to the scheme.	We have proposed changes to item 9 of our list of Trust Mark Criteria to clarify that our intention is for non-compliance to be monitored actively for the initial stages, and then surfaced largely on a reactive basis or via ad hoc checks (rather than regular proactive monitoring) once the Scheme kicks off and consumers are familiar with reporting procedures

			in order to reduce administrative burden.
18.	5.7.2	We would be interested to know if there is an estimation (based on research) how much this would be.	The trust mark schemes which impose such penalties (e.g. FEVAD) do not provide specific information on their enforcement process or amounts. We are thus unable to provide further information save that this is a possible sanction to be considered.
19.	Provided suggested amendments to Annex A		We have made the requested changes to Annex A.
Additional Feedback from Singapore			
20.	Executive Summary	Apologies, we would like to retract our earlier suggestion given the possible differing definitions of accreditation.	Noted and we have removed footnote 2 accordingly.
21.	Executive Summary	We would like to share with ACCEC that CASE has recently launched a new Standard Dispute Management Framework for E-marketplaces on 26 Nov 2021. <a href="https://www.case.org.sg/admin/news/pdf/325_pdf.pdf">https://www.case.org.sg/admin/news/pdf/325_pdf.pdf</a>	Noted. However, please note that we have not incorporated this point directly into the report as the Scheme is not intended to extend to e-marketplaces in the first instance.
22.	Footnote 92	In addition to the link to the application form in the footnote, we suggest to also include the link to the CaseTrust criteria checklist in the footnote. This checklist is used to ascertain if businesses meet CaseTrust accreditation standards. <a href="https://www.casetrust.org.sg/Download">https://www.casetrust.org.sg/Download</a> .	Noted and we have done so. We have also referenced the CaseTrust criteria in Annex B.
23.	4.4.1.2.	Suggest there is no need to include the query in the report.	Noted and we have removed the footnote accordingly.
24.	Provided suggested amendments to footnotes and Annex C		We have made the suggested changes to footnote 2 and Annex C accordingly.

**Philippines**

S/N	Para number in report	AMS's Comment/Query	R&T's Comment
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	reviewed by AMS		
1.	Abstract	<p>Apart from the ACCEC, may we kindly check if other relevant sectoral bodies were consulted? For instance, we understand that this is an initiative to be coordinated with ACCP and ACCEC (as reflected in the ACRF).</p> <p>Thank you!</p>	<p>In accordance with the TOR, we are required to circulate our draft reports to the ICT &amp; Tourism Division of ASEC ("ICTTD") and the Study is managed by the ICT &amp; Tourism Division of ASEC.</p> <p>Representatives from ACCP took part in our consultative workshop dated 3 December 2021. We will continue to explore opportunities to discuss the report with other ASEAN sectoral bodies. Note however that the stringent timeline for the Study may not allow for extensive consultations with all relevant sectoral bodies.</p>
2.	Abstract	Can we confirm that following the initial review of the interim report, the consultants will conduct workshops/stakeholder consultation regarding the study as well as the recommendations in developing and implementing the ASEAN Trust Mark Scheme? Thank you.	Yes. The workshop was held on 3 December 2021.
3.	Exec Summary	When were the stakeholder consultations conducted? Is there a list of stakeholders interviewed that we can refer to, as well as key findings?	<p>The stakeholder consultations begun around week 4 of the Study, and we continue to reach out to potential stakeholders for their inputs.</p> <p>We have been maintaining a list of stakeholders consulted and their written responses or interview transcripts. As the responses and transcripts contain confidential information of the stakeholders, these have not been circulated to ACCEC and the relevant portions in the Report have been redacted.</p>
4.	Exec Summary	Under the ACRF, the trustmark scheme is supposed to operationalize the ASEAN Online Business Code of Conduct. May we kindly check with consultants if at the very least, the criteria of the ASEAN Online	Yes, the ASEAN Online Business Code of Conduct (AOBCOC) and framework agreements have been looked into and incorporated into the Trust Mark criteria.

		<p>Business Code of Conduct has been looked into?</p> <p>We are of the view that relevant ASEAN initiatives would be a good basis/reference in developing the criteria as they already outline what is agreeable among all AMS. Apart from the specified ASEAN Online Business Code of Conduct, the consultants may also refer to the following, among others:</p> <ol style="list-style-type: none"> <li>1. Guideline on Accountabilities and Responsibilities of E-Marketplace Providers</li> <li>2. ASEAN Agreement on E-Commerce (relevant provisions)</li> <li>3. ASEAN Data Management Framework</li> <li>4. ASEAN Framework on Digital Data Governance</li> <li>5. ASEAN Framework on Personal Data Protection</li> </ol> <p>Consultants may also wish to look into the guidelines and experiences of the US' Better Business Bureau (BBB) and Good Housekeeping. While they are technically not considered trust marks, the objective is similar: to recognize that a business/merchant employs good business practices and is trustworthy, and also noting that they have been operational for many years.</p> <p>On online payment, consideration should be made on how this requirement will apply to traders/merchants who have no online payment system arrangements, i.e., who rely on the e-commerce platforms they are part of.</p>	<p>The Trust Mark criteria incorporate each of the commitments in the AOBCOC and relevant concepts in the framework agreements. Please see Table 5 for specific references to the ASEAN Framework on Personal Data Protection and AOBCOC.</p> <p>On traders/merchants who rely on e-commerce platforms' payment systems, please see the updated table 5 - To the extent that the e-shop is listed on an e-commerce marketplace or platform that provides such secure payment methods, the e-shop should be taken to have complied with the payment security criterion.</p>
5.	Exec Summary	Will this require legislating laws to allow regulatory bodies to impose fees?	<p>This will depend on the existing operational structure of the National Bodies.</p> <p>We have clarified this in paragraphs 4.4.3.1 and 6.2.1 of the Report.</p>
6.	Exec Summary	Please clarify whether the suggestion is for an ASEAN minus X approach where ready Member States join at the outset and those not included will join when they are ready.	Yes, participation by AMS will be voluntary. An AMS which does not have a competent National Body to

			<p>operationalize the Scheme may not be able to join the Scheme at the outset.</p> <p>However, please note however that we have removed the parallel accreditation mechanism and the requirement for each AMS to first have a national Trust Mark scheme. Given so, the recommended National Body in each AMS is the authority tasked with handling consumer complaints (please see paragraph 4.4.3.1). Given that each AMS has a consumer protection authority/ or association tasked with handling consumer complaints, the likelihood of an AMS not joining the Scheme from the outset is low.</p>
7.	2.1.1	Please rephrase. Thank you.	Noted and rephrased.
8.	2.1.3	Paragraph 2.1.1 above indicated that the mark can also be placed in shop premises. Noting this, may the markers also guide consumers engaged in physical / face-to-face transactions at the store?	The ASEAN Trust Mark as envisioned in the Report is not intended for stores without an online presence. However, e-shops with a physical presence may place the Trust Mark in their physical stores.
9.	2.2.1	As stated above, we would appreciate being appraise of the consultations that undertaken by the consultants.	Please see our response to S/N 3 above.
10.	2.2.4	The study also mentioned low level of trust on e-payment facilities. Could this also be covered by the Trust Mark Scheme?	<p>To the extent that the Scheme requires e-shops to use secure payment methods, such as an obtaining and displaying an SSL certificate, this concern will be alleviated by the Scheme.</p> <p>However, the Scheme is not the avenue to address general concerns on online payment services/service providers as this is more likely within the purview of national legislation.</p>
11.	2.2.6	Based on the consultant's research, can it also be said that among the various frameworks and infrastructure that can be pursued by governments, a trust mark has	The scope of the Study is restricted to the feasibility of an ASEAN wide e-commerce Trust Mark scheme.



		been determined to be most effective, or at least best in terms of cost-benefit?	While an analysis of the pros and cons of an e-commerce Trust Mark is within the scope of the Study, a comparison of the effectiveness of different methods (including a Trust Mark) to bolster the e-commerce sector falls outside the scope of the Study.
12.	2.2.7	Would it be possible to broaden this to also cover micro enterprises?	Yes, we have amended references to SMEs to MSMEs.
13.	4.2	PH also suggests looking into the availability of other existing Trust Mark Schemes referred to international standards developed by International Standardization Bodies such as ISO and IEC, in line with the principles of the Technical Barriers to Trade Agreement (WTO-TBT).	We understand Philippines's recommendation to be to consider the applicability of international standards. We have done so and made reference to internationally recognizes standards such as SSL certificates in Table 5.
14.	4.2.1.4	May we know why this is redacted. We may need to further discuss the inclusion of unverifiable information in the study.	The redacted portions contain potentially confidential information of stakeholders. Please see our response to S/N 3 above.
15.	4.2.1.5(d)	<p>PH understands that the Sure Seal was established over a decade ago, but ceased to exist after a few years in operation. We had information several years ago that there were plans for the Sure Seal trust mark to be reintroduced in the country. Unfortunately, we have not received any information on this since then.</p> <p>May we kindly ask consultants' to validate the information and consider indicating why operations ceased and when operations resumed (if they did)? This can be a good case study to ensure "continuity and sustainability" of a possible regional trust mark scheme.</p> <p>Also, apart from Sure Seal, consultants may also wish to include reference to the DTI Bagwis Seal of Excellence and Certificate of Recognition which bestows recognition to brick and mortar retail establishments that promote the highest level of business ethics pursuant to the prescribed guidelines, including the protection of consumer rights. This relates to the country's preparedness/experience in implementing similar initiatives.</p>	<p>There is little publicly available information on Sure Seal. However, Sure Seal is still listed on the World Trustmark and Trade Alliance's website. Therefore, while we will still include Sure Seal in the Study for the purposes of analysing the common features of e-commerce Trust Mark schemes, we are unable to provide a further on continuity and sustainability of a regional Trust Mark scheme based on Sure Seal's experience. We have clarified this point in paragraph 4.2.1.5(v).</p> <p>We have included the DTI Bagwis Seal of Excellence and Certificate of Recognition in footnote 18. The Study generally does not discuss brick-and-mortar trust marks in detail.</p>
16.	4.2.1.8	In the earlier section, consultants highlighted the importance of e-commerce to the ASEAN region. Would it be possible	Please see the inserted Figure 1 for charts depicting the evolution of e-



		to have a breakdown of that per AMS so that we can see if there is a correlation between the pursuit of a trust mark? (a bigger slice of the pie may warrant the implementation of such a scheme while for AMS with a small e-commerce sector may not be as pressured to implement such a scheme).	commerce percentage of total retail in select countries, including some AMS.  Please note that as a foreseeable benefit of a regional Scheme is the bolstering of e-commerce sectors, it may not be appropriate to consider the value of the Scheme to an AMS based on the current significance of e-commerce in that AMS's economy.
17.	4.2.1.9	[In response to request for AMS to confirm the contents in Annex C]  PH is still consulting relevant agencies and will revert as soon as possible.	Noted.
18.	4.2.4	We suggest the ASEAN Secretariat coordinate with the missions of any of the Latin American countries to ASEAN, if possible, to seek more information about this scheme so that it may be included in the study.	For ASEC's action.
19.	4.2.4.6	Does this mean that any of these 37 trustmarks are also recognized in these 30 countries globally?	No. The 37 trust marks recognised by WTA are from 30 countries in total and it is up to the consumer in each country to decide if they recognise the trust marks from other countries.
20.	4.3.10.4.	How will this help already established and "famous" e-commerce platforms like Lazada, Shopee etc? Even without a trustmark scheme, it would seem they are growing exponentially, meaning there is already an established consumer trust in these platforms.  In addition, may we confirm how the trustmark scheme will apply for e-commerce platforms and its "businesses".  For example, if Lazada has applied for a trustmark scheme, does that apply already for all of the businesses that are selling in Lazada? If not, how do we ensure that the trustmark accredited for Lazada only, will not be misconstrued by consumers as a trustmark for all businesses selling through Lazada?	Please note that the Scheme as envisioned under the Study is not intended to cover e-commerce marketplaces and platforms, such as Lazada and Shopee, in the first instance (please see the revised paragraph 2.1.1.)  Practically, there is little downside to the exclusion of these marketplaces and platforms as they tend to be trusted by consumers due to their in-built customer redress procedures.  However, we have included comments on how the Scheme may be adapted to involve such e-commerce marketplaces and

			platforms in the future – please see paragraph 6.1.3.
21.	Table 4	<p>Are these usually publicized for the public's information? How will consumers know that the trustmark has been revoked, and the reason why it was revoked?</p> <p>In addition, how can the body ensure that the business will no longer display the trustmark scheme since technically, they already have a copy of the “mark”?</p> <p>What are the consequence of “still using the trustmark” even through the right to display it has been revoked?</p> <p>In relation to the above questions, there may be of value in also utilizing online verification and reporting portal to verify if a website is authorized to use the ASEAN Trust Mark, and subsequently allow them to report unauthorized use. This may help address the concerns raised above.</p>	<p>These consequences are typically included in the Code of Conduct of each Trust Mark scheme, which are typically published for public's information.</p> <p>The publicity of such sanctions vary for different Trust Mark schemes. Most of the schemes focus on publicizing the ability for consumers to report non-compliance/complaints against accredited e-shops and provide directories on which the consumer may confirm if an e-shop is in fact accredited under the scheme.</p> <p>The recommendation to allow consumers to report non-compliance e-shops is included in Table 5. We have further included the recommendation for a directory of accredited e-shops in the same table.</p>
22.	5	<p>Apart from the elements outlined below in the recommendations, it is also important to look into the following key considerations and address these elements:</p> <ol style="list-style-type: none"> <li>1. Mechanisms for essential elements of each AMS to implement the scheme</li> <li>2. Areas of B2C transactions that will be covered, as well as the defined standards for each area of online business</li> <li>3. Existence of fake trust marks and lack of knowledge of consumers</li> <li>4. Readiness of Member States to adopt a trust mark scheme, including the designation / identification of a body to implement the scheme</li> </ol> <p>Please also clarify whether participation in the regional system requires an e-shop to be servicing the whole ASEAN region. It may be the case that some shops on service some of the ASEAN Countries.</p>	<p><u>Point 1 – Implementation of Scheme</u></p> <p>We have expounded on the specific requirements that each National Body should look out for to verify compliance with the Trust Mark Criteria in table 5. We have also inserted Figure 2 which illustrates the general recommended accreditation process. As indicated in table 6, it is recommended that specific processes such as the appropriate form and channel of application for accreditation, supporting documents required to prove compliance with Code of Conduct and specific process of accreditation will be left to each National Body given that the existing processes of different National Bodies are likely to be different.</p>

			<p><u>Point 2 - Scope of B2C transactions within Study</u></p> <p>Please see paragraph 2.1.1 and 6.1.3.</p> <p><u>Point 3 – Fake trust marks and lack of knowledge of consumers</u></p> <p>Please see paragraphs 4.4.4.2, 5.7.3 and tables 4 and 5 where we have recommended the use of blacklists, directories and consumer complaint channels.</p> <p><u>Point 4 – Readiness of AMS to adopt Scheme</u></p> <p>Please see S/N 6 above, the executive summary and paragraph 6.2 of the Report for a discussion of the readiness for implementation of the Scheme.</p> <p>An e-shop need not service the entire ASEAN region to participate in the Scheme. We have clarified this in paragraph 2.1.1.</p>
23.	5.3.4(a)	As with any other program or project, it is critical for widespread advocacy and awareness campaigns to encourage adoption/participation by traders/merchants (albeit on a voluntary basis), and promote recognition by consumers of traders/merchants who carry the ASEAN Trust Mark.	Noted and this has been addressed throughout the Report.
24.	5.4.3.	<p>If we understand correctly, each AMS will be allowed to administer the regional ASEAN trustmark scheme provided that the local trustmark scheme is in compliance with the criteria of the regional scheme.</p> <p>If this is the case, how can we ensure that each AMS will not “freely” give out the ASEAN Trustmark Scheme. Is there a mechanism for each AMS to check if other AMS have accredited properly?</p> <p>In addition, it bears stressing that traders/merchants who wish to participate in the scheme must truly be ready and</p>	<p>Please note that we have removed the parallel accreditation mechanism and requirement for each AMS to have its national trust mark scheme.</p> <p>Given that ASEAN/AMS has no direct powers to impose sanctions on an errant AMS for failure to issue the ASEAN Trust Mark in accordance with the Code of Conduct, we have recommended an information exchange procedure</p>

		capable of meeting/supplying orders and have reliable partners to serve their client's needs. Once they are issued an ASEAN Trust Mark, it is expected that orders will pour in from the ASEAN region.	<p>where each National Body/AMS is required to provide information such as processes adopted to implement the scheme, number of e-shops accredited and number of consumer complaints lodged against accredited e-shops etc to ASEAN regularly, and ASEAN may provide recommendations on implementation procedures if necessary (please see table 6).</p> <p>The requirement for merchants to be ready and capable of meeting order is practically enforced via the Trust Mark criterion of offering refunds in the case of non-delivery, for instance (please see table 5).</p>
25.	5.4.4	<p>Due to a general lack of awareness regarding trust marks, streamlining technical assistance to AMS that have yet to implement a full-fledged/widely-used trust mark system, may pave the way for the gradual adoption of a potential regional trust mark system.</p> <p>As in the case of the Philippines, its domestic trust mark, Sure Seal, has arguably been underutilized across e-commerce traders. Prioritizing assistance to individual AMS can help in the acceptance of a regional trust mark system as AMS would be better capacitated on their respective domestic processes for trust mark implementation.</p> <p>Given the stark differences in AMS' e-commerce development and level of supply chain management, some AMS, particularly those with emerging e-commerce ecosystems, may face difficulties when it comes to adherence to a regional trust mark. Hence, some degree of flexibility must be exercised in terms of adoption through a gradual phased implementation as well as the provision of adequate technical assistance to AMS.</p> <p>Once most AMS have established their national trust marks that work, then ASEAN can entertain the possibility of having its own regional trust mark.</p>	<p>We have recommended that ASEAN facilitate cross-learning opportunities across AMS to enable capacity building for AMS that have less experience with e-commerce and/or trust marks. Please see details in paragraph 5.4.3 of the Report.</p> <p>As explained in S/N 22 above, we have considered the different levels of e-commerce development in each AMS and thus table 6 recommends flexibility for each National Body in implementing the Scheme, provided the Trust Mark criteria are met.</p> <p>Again, please note that we have removed the requirement for each AMS to have their national trust marks.</p>
26.	5.5	We suggest the consultants reach out to the ASEAN BAC or the JBCs to hear their views on the establishment of a regional	Noted and we will continue reaching out the private sector for their inputs.

		trust mark scheme, and possibly incorporate in this study their specific recommendations, if any  For the scheme to be effective, it will need the strong support of the private sector	
27.	5.6.3.	Can AMS tap existing bodies/organizations/associations to implement the ASEAN Trustmark Scheme?	Yes. This is the intention. Please also see S/N 6 above.
28.	5.6.3.	How will this play out with domestic trustmark schemes that are tagged as “for profit” (e.g. SureSeal Philippines)?	Please note that we have removed the sentence from the Report. If implementation is delegated to a for-profit organization, the AMS in question should consider if it should impose obligations on the for-profit organization to charge a fair (and low) administrative fee.
29.	Table 5	<p>Do these already take into account the ASEAN Online Business Code of Conduct as well as the Guidelines for E-Marketplace Providers? We note that under the ACRF, the Trustmark Scheme is supposed to implement these pre-existing criteria/guidelines.</p> <p>Furthermore, we are of the view that relevant ASEAN initiatives would be a good basis/reference in developing the criteria as they already outline what is agreeable among all AMS. Apart from the specified ASEAN Online Business Code of Conduct, the consultants may also refer to the following, among others:</p> <ol style="list-style-type: none"> <li>1. Guideline on Accountabilities and Responsibilities of E-Marketplace Providers</li> <li>2. ASEAN Agreement on E-Commerce (relevant provisions)</li> <li>3. ASEAN Data Management Framework</li> <li>4. ASEAN Framework on Digital Data Governance</li> <li>5. ASEAN Framework on Personal Data Protection</li> </ol> <p>Consultants may also wish to look into the guidelines and experiences of the US’ Better Business Bureau (BBB) and Good Housekeeping. While they are technically not considered trust marks, the objective is similar: to recognize that a business/merchant employs good business practices and is trustworthy, and</p>	Please see S/N 4 above.

		<p>also noting that they have been operational for many years.</p> <p>On online payment, consideration should be made on how this requirement will apply to traders/merchants who have no online payment system arrangements, i.e., who rely on the e-commerce platforms they are part of.</p> <p>Thank you.</p>	
30.	5.7	Apart from the outlined recommended sanctions, it may be of value to explore blacklisting companies and/or websites who do not comply with ASEAN Trust Mark requirements or misuses the Trust Mark that could be published for consumer awareness.	Noted and agreed. We have added this in at paragraph 4.3.12 and throughout the Report.
31.	5.7.2(d)	Who will impose this?	In the context of the Scheme and to avoid the need for amending regulations to give National Bodies the power to collect fines, this may be done by way of a contract. We have clarified this in paragraph 4.4.4.3.
<b>Additional Feedback from Philippines</b>			
32.	Request if the number of interviewees (rough count would do) can be mentioned in the Study itself.		We have included this information in footnote 10 accordingly.

## Lao PDR

S/N	Para number in report reviewed by AMS	AMS's Comment/Query	R&T's Comment
1.	4.2.1.5	<p>Actually, Lao PDR has already developed a legal basis for compulsory e-commerce trust marks. However, it is in the process to develop key infrastructures.</p> <p>Decree on e-commerce no 296/GOV, dated 12 APR 2021 was endorsed to regulate ecommerce businesses in Lao PDR it is specified that any ecommerce platform, to operate in Lao PDR, shall apply for business license. Moreover, in terms of trustmark, it is specified under article 7&amp;8 that ecommerce vendors shall notify its business to MOIC and trustmark will be issued accordingly.</p>	Noted and we have amended Annex A and paragraph 4.2.1.5 (iii) accordingly.

		Under the decree, MOIC, MCT and BOL will jointly manage the ecommerce businesses [as well as the scheme].	
2.	4.3.5	Lao PDR has already developed a legal basis for compulsory e-commerce trust marks, under Decree on e-commerce no 296/GOV, dated 12 APR 2021. However, it is in the process to develop key infrastructures. Moreover, ordinarily, MoIC (as Public ORG) will manage the scheme	Noted and we have amended Table 1 accordingly.

**Malaysia**

S/N	Para number in report reviewed by AMS	AMS's Comment/Query	R&T's Comment
3.	Annex A	<p>Referring to the draft study, we would like to inform that Malaysia Trustmark for Private Sector (MTPS) is no longer valid as of 19 September 2019. This has been replaced by "MyTrustSEAL" which was established by CyberSecurity Malaysia in 2020.</p> <p>CyberSecurity Malaysia is a national cyber security specialist agency under the purview of the Ministry of Communications and Multimedia Malaysia. MyTrustSEAL logo have been registered with Intellectual Property Corporation of Malaysia (MyIPO).</p> <p>Please find attached herewith the inputs from our end for the draft feasibility study, for your further action.</p>	Noted and we have amended Annex A and paragraph 4.2.1.5 (iii) accordingly.