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ROADMAPPING CAPACITY BUILDING NEEDS IN CONSUMER PROTECTION IN ASEAN

Consumers International

COUNTRY REPORT: THAILAND (FINAL)

(Revised 3 June 2011)

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ABSTRACT

Thailand is one of the strongest ASEAN countries regarding consumer protection and has well-developed mechanisms for protecting the interests of Consumers through different laws, programmes and initiatives. Apart from having the Principle Consumer Protection Act in place since 1979, the country has also developed various consumer protection mechanisms that including the establishment of the Office of the Consumer Protection Board plus other institutions. In Thailand, there are other consumer related Acts in place that regulate and govern to ensure consumer protection in the country. Legal instruments for the advancing consumer areas that are of interest to ASEAN economic integration, such as product safety and labelling, telecommunication and e-commerce, finance and banking, environment, healthcare and professional services are in place. This report presents the outcomes of an assessment of the capacity building needs in Consumer Protection in Thailand with specific focus on the six-selected consumer areas, contributing towards the ASEAN regional framework. The research project discovered gaps in both human and institutional capacities related to specific needs for improved effectiveness and long-term sustainability in dealing with consumer issues and consumer protection areas. Thirteen different stakeholders from government agencies, business sector, academic institutions and non-government organisations completed a general survey questionnaire. Further validation was obtained through Key Informant Interviews involving 10 key informants and further 15 participants at a roundtable discussion. The findings suggest that Thailand still needs to look at ways that it can enhance the existing frameworks for consumer protection to encourage and build consumer confidence in a thriving market place. Specifically, there is a need for establishing independent consumer organisations to play a key role in proposing policy recommendations to national decision-makers in the country. Similarly, challenges like inadequate number of staff, allocation of program budget and coordination with different agencies should be addressed to strengthen consumer protection in Thailand. The report outlined some of the recommendations on how to achieve Thailand's envisaged consumer protection for a sustainable future at the domestic level along with the ASEAN level.

Keywords: Consumer protection, capacity building, consumer complaints, redress mechanism, best practices, Thailand.

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ABBREVIATIONS

AADCP II	ASEAN-Australia Development Cooperation Program Phase II
ACCP	ASEAN Committee on Consumer Protection
ACFS	Agricultural Commodity and Food Standards
ADR	Alternative Dispute Resolution
AMS	ASEAN Member States
AOC	Actual Operating Context
APEC	Asia-Pacific Economic Cooperation
APRMC	Adverse Product Reaction Monitoring Centre
ASEAN	Association of South East Asian Nations
BOT	Bank of Thailand
BTO	Build-Transfer-Operate
CAT	Communications Authority of Thailand
CEPI	Consumer Education And Protection Initiative
CI	Consumers International
CP	Consumer Protection
CPA	Consumer Protection Act
CRC	Convention on the Rights of the Child
DTI	Department of the Internal Trade
EARTH	Ecological Alert and Recovery Thailand
ECT	Election Commission of Thailand
ENCON	Energy Conservation Program
FDA	Food and Drug Administration
FFC	Foundation for Consumers
FOC	Formal Operating Context
FSMP	Financial Sector Master Plan
GDP	Gross Domestic Product
GMP	Good Manufacturing Practice
HACCP	Hazard Analysis Critical Control Point
ICT	Information Communication Technologies
IPCS	International Program on Chemical Safety
ISO	International Organization for Standardization
IT	Information Technology
MICT	Ministry of Information and Communication Technology
MoPH	Ministry of Public Health
MOSTE	Ministry of Science, Technology and Environment
NCCC	National Counter-Corruption Commission
NSO	National Statistical Office
NTC	National Telecommunications Commission
OCPB	Office of the Consumer Protection Board
OIE	World Organisation for Animal Health
PCD	Pollution Control Department
PTT	Petroleum Authority of Thailand
SEC	Securities and Exchange Commission

SOE	State-Owned Enterprise
TISI	Thai Industrial Standard Institute
TQM	Total Quality Management
TOT	Telephone Organization of Thailand
UCS	Universal Coverage Scheme

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EXECUTIVE SUMMARY

When Thailand enacted major legislation to protect the interests of consumers, it was one of the front runners of international reform efforts to protect consumers. The Consumer Protection Act (1979) and other related Acts like Food Act (1979), Drugs Act (1977), Cosmetics Act (1984) and others were all forward thinking for the time. Over the past thirty years, however, the commercial and social environment of Thailand has changed drastically with consumers having new expectations and changing market trends. ASEAN's development strategy as well as other key national strategies now guides Thailand. The country is committed to an ambitious agenda of development and growth by enhancing social, economic and technical strengths.

Consumers in Thailand now live in an era of greater globalisation, stronger international influence, greater use of credit and increasing growth of services in the marketplace. One of the most important and exciting challenges and opportunities facing the nation is its membership in ASEAN; creating one identity, one market and one economy in the region. Greater co-operation and the development of harmonised approaches to social policy, law-making and law enforcement drive many reforms within the Region. To meet all these new challenges, the Government has been examining the current state of consumer protection in Thailand.

The study conducted in Thailand by Consumers International Kuala Lumpur with the support of its Thai member, Foundation for Consumers (FFC), identified the following constraints in implementing consumer protection activities in Thailand:

- Skilled staff in the consumer protection agencies
- Access to training on different consumer related aspects
- Access to information for specific areas on consumer protection
- Access to experts of consumer related areas

Existing limitations identified in Thailand:

- Inadequate Staff
- Inadequate finance/budget to run programmes and activities
- Inadequate coordination among relevant agencies or organisations

Need to Strengthen Existing Institutions

The existing legislation has a number of strengths. The Office of the Consumer Protection Board is devoted to strengthening protection for consumers. Time and experience have shown, however, that officials need additional tools to achieve the objectives of consumer protection. It was also proposed that an independent organisation for Consumer Protection be established in Thailand to play a key role in proposing policy recommendations to national decision-makers and to promote ethical trade practices.

As a whole the study identified the following forms of assistance to overcome the existing situation for effective implementation of Consumer Protection Programmes and Activities in Thailand:

- Skills training in negotiation, mediation and conflict management
- Strengthening coordination through workshops with relevant agencies and organisations
- Organising study visits for learning and exchange
- Training in preparation of manuals and tool-kits
- Networking assistance within agencies and among AMS
- Provision of technical support for specific issues
- Staff exchanges
- Adopting actions of agencies and institutions within the ASEAN region
- Seminars and education for all stakeholders
- Sourcing additional financing

Strategic highlights for strengthening Consumer Protection in Thailand:

- Establishing an Independent Organisation for Consumer Protection in Thailand
- Strengthening Intra-governmental co-operation with relevant organisations i.e. education ministries and consumer affairs ministries
- Developing a comprehensive Consumer Complaints Management system as a single window system to create a uniform preventive measure
- Strengthening the transparency of market surveillance and enforcement investigations
- Strengthening market monitoring to identify where enforcement actions are necessary
- Increasing international cooperation through agreements with enforcement authorities in respective countries and at the regional level in ASEAN
- Collaboration with consumer organisations and accessing their expertise in strengthening the mechanism for consumer protection at the grassroots level
- Compliance monitoring through Surveillance, Inspections (on site), Investigations, Record reviews and targeted information gathering to ensure and encourage practices and codes of conduct are in consistent with regulations
- Explicit use of information technology (IT) enabling threshold improvements that address consumer protection concerns
- Sharing consumer education responsibilities among stakeholders in order to exploit synergies and avoid redundancy
- Promote intergovernmental relationships to participate effectively, carry out mandates to achieve goals and facilitate systems e.g. executive mechanisms, coordinating mechanisms, cooperative agreements, judiciary and legislative mechanisms

1. INTRODUCTION

1.1. STUDY BACKGROUND

This country report is a contributing component of the Regional Report *Roadmapping Capacity Building in Consumer Protection in ASEAN*. It is a project of the ASEAN Australia Development Cooperation Program (AADCP) Phase II, which aims to strengthen consumer protection in the region as well as in individual ASEAN Member States (AMSs). The purpose of this research is to develop a regional capacity building road-map for consumer protection and supporting road-maps for each of the AMSs. The following information was gathered and is presented in this report:

- consumer protection policies, laws and regulations in AMSs
- consumer education programmes, initiatives and best practices
- capacity building needs and recommendations of major stakeholders for consumer protection

The framework of the study is primarily based on the UN Guidelines for Consumer Protection (1985), and Consumers International's 8 fundamental rights:

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

Other key principles considered:

- **Protection:** Consumers should be protected from unfair practices
- **Responsibility:** Transparent legislation and effective consumer programmes and education
- **Enforcement:** Prompt and efficient enforcement of legislation to deter breaches of the consumer protection laws by businesses
- **Change:** Identification of new and emerging consumer issues to update legislation and information
- **Competition:** Promote a fair environment in the marketplace, encourage free and open competition, within government regulations, to benefit both consumers and businesses
- **Representation:** Legitimise representation of non-governmental consumer organisations and recognise their right to association

Consumers International Kuala Lumpur (CIKL) Office carried out the study in cooperation with its members in the AMS and partners, or appointed local focal points. In Thailand, the study was done with Foundation for Consumers (FFC), as the local focal point.

CI is a not-for profit federation of consumer groups that serves as the only independent and authoritative global voice for consumers. Founded in 1960 and with over 220 member organisations in 115 countries, it is building a powerful international movement to help

protect and empower consumers everywhere. The Kuala Lumpur office is CI's regional office for Asia Pacific and the Middle East.

Organisation of Report

This report is organised into 6 Chapters. Chapter 1 provides general background on Thailand and a general state of consumer protection in the country. Chapter 2 outlines the methods applied for data gathering that led to the outcomes and findings presented in this report. Findings of the project are presented in Chapters 3, 4 and 5. The general mapping and situational analysis on national legislation and consumer protection programmes are presented in Chapter 3. Chapter 4 covers the assessment of the capacity building needs of the various stakeholders that took part in the project, and Chapter 5 presents some recommendations and road-map for capacity building needs in consumer protection at the national level. Finally, Chapter 6 draws an overall conclusion of the report.

1.2. COUNTRY BACKGROUND

Bordering on the north with Laos PDR and Myanmar, on the east by Laos PDR and Cambodia, on the south by the Gulf of Thailand and Malaysia, and on the west by the Andaman Sea and Myanmar, Thailand is a country in South East Asia. The Thailand demographics reveal cultural homogeneity. Thailand is considered to be the World's 50th largest country in terms of total area, with a surface area and the World's 20th largest country in terms of population with approximately 63 million people.

The population consists of Thais (80%), Chinese (10%), and Malays (3%). The rest are minority groups such as Mons, Khmers, and various Hill Tribes. The country's official spoken and written language is Thai. The demography of Thailand displays an eclectic mixture of persons having their origins from various parts of Asia. The demographic statistic of Thailand reveals that the majority of the Thai population is concentrated in the rural areas of central, North-eastern and Northern Thailand. The urban population is approximately 31.1 % of the total population. The population growth rate is 0.68 % of the total Thai people according to the 2006 census.

Thailand has a high literacy rate. About 92.6 % of the population is functionally literate as per the 2006 census. The main religion of Thailand is Buddhism. Thailand is divided into 76 provinces, which are further divided into 877 districts. Each of the provinces has one capital district.

1.2.1 Thailand's Economy

After enjoying the world's highest growth rate from 1985 to 1995 - averaging almost 9% annually - increased pressure on Thailand's currency, the baht, in 1997 led to a crisis that uncovered financial sector weaknesses and forced the government to float the currency. Long pegged at 25 baht to the US dollar, the baht reached its lowest point of 56 to the US dollar in January 1998 and the economy contracted by 10.2% that same year. The collapse prompted a wider Asian financial crisis.

Thailand entered a recovery stage in 1999, expanding 4.2% and grew 4.4% in 2000, largely due to strong exports - which increased about 20% in 2000. Growth was dampened by softening

of global economy in 2001, but picked up in the subsequent years due to strong growth in China and the various domestic stimulation programmes of the then Prime Minister Thaksin Shinawatra, popularly known as Thaksinomics. Growth in 2003 and 2004 was over 6% annually. Substantial industries include electric appliances, components, computer parts and automobiles, while tourism contributes about 5% of the Thai economy's GDP.

According to the 2007 Household Socio-economic Survey conducted by Thailand's National Statistical Office, "households in Thailand had income and expenditure between 18,660 and 14,500 Baht per month. Households nationwide spent on average 14,500 baht per month, where by 33.0 percent is mainly spent on food and beverages, followed by expense on housing and household appliances (20.1%), vehicles and transportation (18.2%), personal supplies/clothing/footwear (5.6%), communication (3.4%), recreation and entertainment (2.5%), education (2.1%), and activities related to religious (1.0%). In addition, household had non-consumption expenditure such as expenses on taxes, gifts, insurance (non-accumulative), lottery, and interest payment, which was about 12.2 percent".

1.2.2 Thai Administrative System

Thailand is a democratic country with the King as Head of the State. It is a Constitutional Monarchy under the Constitution of the Kingdom of Thailand of B.E. 2540 (1997), as promulgated on 11 October 1997. The Constitution is regarded as the first people's constitution of the nation. The Constitution establishes three independent powers, namely, the Legislative, the Executive, and the Judiciary powers. There are central, provincial and local administration systems governing the people of Thailand.

1.3 CONSUMER PROTECTION

1.3.1 General Overview

The modern economic development of Thailand from the 1980s onwards has created the demands of its own, and amongst these have been demands for greater protection for consumers in transactions affecting their everyday lives. The importance of Consumer Protection (CP) on Social and Quality of Life was also timely expressed by Mr. Abhisit Vejjajiva, the Prime Minister of Thailand in his speech to the National Assembly on December 29, 2008. It was stated that the Government shall *“attach importance to all aspects of consumer protection by raising awareness, establishing an independent consumers’ organisation and strictly enforcing consumer protection laws, and using legal mechanisms to protect consumers from being taken advantage of by such means as excessive advertising, hidden advertisements, or use of media for personal interests.”*¹

Indeed, the roots of consumer rights can be found in Thai society, as elsewhere, in age-old traditions. The rise of Thailand as a nation state also attests to various origins of consumer rights. The advent of the country's first Constitution in 1932 has clearly outlined the need for consumer protection in a rapidly growing economy. Subsequent development enabled for the establishment of the Office of the Consumer Protection Board (OCPB) as the government agency attached to the Office of the Prime Minister to carry out primary CP functions including handling complaints received from consumers and instituting legal proceedings when an infringement of consumer rights is recognised. The OCPB covers three major areas of consumer protection: consumer protection against misleading advertising, protection against false labelling, and protection in contracts.

The protection of consumers in Thailand is regulated by the Consumer Protection Act (CPA), which calls for the protection of the rights of consumers and aims to prevent businesses from deceiving consumers. Thailand recognises the 8 consumer rights taking into account the interests and needs of consumers in the Country relating to:

- Existing imbalances in economic terms
- Educational levels and bargaining power
- Right of access to safe products
- Right to promote just, equitable and sustainable society
- Economic and social development
- Environmental protection

An increase in the number of consumer complaints has been reported by Government agencies as well as consumer organisations. For instance, of the complaints received by Thailand’s Office of Consumer Protection Board (OCPB) in 2009 & 2010 suggested that failure to honour contracts was the most prevailing consumer’s concern in Thailand, particularly in the property sector. *“Unfair Contract Terms”* were cited with regards to the validation and enforceability of terms or provisions. Complaints on misleading

¹ Ministry of Foreign Affairs, File Report of the Policy Statement of the Council of Ministers Delivered by Prime Minister Abhisit Vejjajiva to the National Assembly 2008.

advertisements especially relating to marketing of food products to children, alcohol advertising and drug advertisements are more becoming, suggesting the gaps in that law enforcement.

Consumer spending behaviour and consumer credit for acquiring goods and services in the country has also been highlighted. According to the Thailand Debit Survey conducted by AC Nielsen in July 2010, one third of Thai consumers prefer to pay for everyday items with a debit card while cash is commonly used to pay for most goods and services. Debit cards and online shopping have emerged as the preferred way to do purchases and pay for everyday goods and services, including shopping (30 percent), purchases at the pharmacy/drug store (30 percent) and for entertainment expenses (29 percent) such as cinema tickets or others. Consumer surveys from Internet Fraud Watch, Foundation of Consumers and NECTEC, noted that primary concerns for the consumers when they do online shopping were trust and confidence. From the reports, it is noted that consumers experience problems for unfair marketing practices such as:

- Insufficient Information Disclosure with regards to refund policies, warranty information, cancellation terms
- Transaction Confirmation & Cancellation Policies
- Fraud and Deception strategies like fake merchandise, non-conforming goods purchased online,
- Non-delivery or late delivery of goods and insecure payment methods
- Invasion of Privacy with misuse of personal information, interception and alteration of financial data

In this study, consumer protection was particularly examined in 6 selected consumer areas that include product safety & labelling; phone & Internet Services and e-commerce; consumer credit and banking; environment; health and professional services.

1.3.2 Product Safety and Labelling

Based on the study, the main consumer complaints in Thailand those are related products are advertising and direct sales or marketing. It is noted that Thailand has the integrated management system of Product Safety and Labelling being enforced by OCPB and Thai Industrial Standard Institute (TISI). This system is in compliance with the international recommendations and is the top most priority for ensuring consumers safety and quality of life in the healthy environment. Under the OCPB, the Labelling Committee labels categories of goods and takes action where labelling is misleading or does not describe the ingredients or components of the goods correctly. The Committee has the power to declare goods “label-controlled” and to regulate the form and content of the labels used on such goods.

Thailand lacks specific laws and rules with respect to product safety with a few exceptions such as the Safety Monitoring Programme (SMP) conducted by the Thai Food and Drug Authority (FDA). In general, Thai consumers generally have to rely on the Consumer Protection Act. The part of this law, which deals with general consumer protection, empowers OCPB to impose product safety measures on any kind of product. In effect, the law does not impose any requirement on business operators to play a proactive role and to report any information, which might be useful for the board. In short, product quality in Thailand

substantially relies on the corporate conscience of individual business operators. Effective and timely advice and disclosure to the board is on voluntary basis rather than mandatory.

The process of retrieving defective goods from the Thai market as a result of safety concerns over a manufacturing defect in a product is done quite a number of times. The products include household, recreational, outdoor, children's toys and others. Recently in December 2010, the Thai Breastfeeding Centre called on the government to ban the advertising of milk and food products for babies under the age of two. The move comes after the Centre discovered that baby food manufacturers were encouraging parents to use their products for newborns and children under the age of two. According to the Centre, baby milk producers are visiting hospitals to hand out gifts with the company's logo to new parents, encouraging them to use their products.

Under the product liability in Thailand, a business operator can be liable regardless of whether it was negligent in making or selling the product. An injured party only needs to prove that he was injured or suffered damage from the defective product while using the product in the way it was intended to use. There is no need to prove fault or negligence. A potentially liable "operator" includes a:

- Producer, outsourcer, or importer of the defective product.
- Seller who cannot identify the manufacturer, outsourcer, or importer of the product.
- Person using the trade name, trade mark, logo, wording, or showing by any means in a manner to cause people to understand that he is a producer, an outsourcer, or an importer.

In addition to the above, ASEAN Rapid Alert System for Food and Feed (ARASFF) is being implemented in Thailand under the ACFS and EC Delegation to Thailand. They are jointly working on further development of information exchange suitable for working under diverse conditions of ASEAN, establishment of SEAN network and establishment of Thailand national network of ARASFF². Food manufacturers in Thailand are aware of the critical importance of food safety and quality. Thailand is home to a number of authorised food safety/quality_certifying agencies. Thai standards are drawn from and adhere to international standards such as Codex, OIE Standards and the International Plant Protection Convention. They also adhere to quality assurance systems such as GMP, Total Quality Management (TQM), HACCP and the International Organisation for Standardisation (ISO).

1.3.3 Phone & Internet Services and E-Commerce

The telecommunications sector in Thailand is regulated by the National Telecommunication Commission (NTC). Telecommunication licensees in this sector are required to offer services in compliance with the standards and quality of services set by the NTC, which include technical issues, standards for service contracts, tariff and service charges, as well as consumer rights protection in the areas of personal data, privacy and freedom of communication via telecommunication networks. These standards are introduced to make the provision of such services fair and equitable for both service providers and users, pursuant to Article 51 (10) of

² For more information please refer to

http://ec.europa.eu/food/food/rapidalert/docs/rasff30_speech_ARASFF_en.pdf

the Act on Organisation for Allocating Broadcasting Frequency and Supervising Radio/Television Broadcasting and Telecommunication Businesses, B.E. 2543 (2000).

To properly implement these standards, NTC has issued several notifications concerning protection of telecommunications service users and published them in the Royal Thai Government Gazette in order for them to be effectively enforced under various laws. These notifications include the procedures for receiving complaints and handling user's complaints, standards of telecommunications service contracts, measures to protect the rights of telecommunications service users related to personal data, privacy, and the freedom of communication via the telecommunication network, including the establishment of the Telecommunications Consumer Protection Institute and the Call Centre 1200 to protect the rights of consumers and enhance their bargaining power and awareness in these areas.

In addition, NTC also requires that telecommunication licensees establish a separate call centre, in addition to their existing customer service centre, to settle disputes and seek solutions to complaints filed by users without any additional charges. At present, telecommunication operators including fixed line, mobile, the Internet, and payphone have successfully established the required centres. Service users with problems or queries regarding false tariff or charges inconsistent with the actual service usage, services being inconsistent with advertisements, or termination of contracts due to poor quality services as well as other unfair treatment, can now seek advice and assistance from these centres.

The aggrieved service users have the right to lodge complaints to request investigations and remedies by submitting their complaints to the licenses offering the service as well as forward cases to the Telecommunications Consumer Protection Institute (TCPI) for reconsideration. If TCPI finds the case has merit as petitioned, TCPI will present the case to NTC for adjudication. If the NTC concur, they will instruct the service provider to rectify the problem within 30 days.

In general, the Telecommunications services in Thailand were once exclusively provided by two state-owned enterprises (SOEs): the Telephone Organisation of Thailand, which held a monopoly over domestic telephony, and the Communication Authority of Thailand, which had the monopoly over international gateway services. The market division between the two SOEs held throughout the early development of telecommunications sector in Thailand, but in the early 1990s, it was recognised that the industry could grow further through the infusion of private capital.

The entry of the private sector into the Thai telecom landscape via Build-Transfer-Operate (BTO) concessions ushered in an era of remarkable expansion in the subscriber base of both the fixed and the cellular networks. The concession era came to an end with the promulgation of the Telecommunications Act in 2001, which terminated statutory state monopolies by empowering the National Telecommunications Commission to issue new telecom licenses.

Information technology development, particular in telecommunication, plays more important role in Thai consumption pattern and living style. In particular, the Thailand's telecommunications services are at an international standard, especially in urban areas such as Bangkok. Thailand is rapidly developing its IT industry. Internet and mobile phone, for example, are developed and widely used. Competition in product design and development for

the market is very high. Various forms of service charges, such as package price, pre-paid card, are launched as strategies to convince consumers.

According to the 2008 survey report on telecom regulatory and policy environment in Thailand by Deunden Nikomborirak-Saowaluk Cheevasittiyanon, Thailand's mobile subscribers far exceed the country's fixed-line subscribers. Thailand's mobile market approached 45 million subscribers in early 2007, with a penetration rate close to 70%. By mid 2008, Thailand reported a mature 2G market with 56.2 million mobile subscribers (98.2% of them GSM), representing a mobile penetration of 88.3%, one of the highest in the Asia Pacific region. In Q1 2010 Thailand had 68,536,386 mobile subscribers of which 61,420,068 were pre-paid. Penetration stood around 102%.

The same Survey also reported that the International bandwidth for the whole country was more than 11Gbps. The number of Internet users, according to the National Statistical Office (NSO) registered less than 2% growth for the year 2005/2004. There is no recent estimate from the NSO. As per the rough estimate, the number of Internet users in Thailand in 2010 may be around 18.1 million people.³ The number of broadband users is expected to increase to 60% of all Internet subscribers in Thailand by the end of 2011.

The results of the survey conducted by the Thai National Electronics and Computer Technology Centre (NECTEC) between September and November 2010 of Thai Internet users show that 54.4% of Thai net users are females. The majority of net users were between 20 and 30 years old. 66% of Internet users access the Internet from home, while 40% use the Net in the workplace, 29% at an educational facility and 25% at Internet cafes.

In 2009-2010, online shopping in Thailand was noted to grow rapidly during 2009-2010 due to the increase internet penetration, the well-developed shopping sites with better product variety, and an improved security system and logistic.⁴ However, the top five Internet problems were also cited for Thailand, which were related virus attacks, communication speed, junk mail, pornography, and impolite/inappropriate content.

Thailand's e-commerce industry is growing significantly each year over a very small base, spurred on by the rapidly expanding Thai credit card industry and higher Thai Internet usage and penetration, in the wake of increased foreign investment levels in a fast growing Thai economy. This is paving the way for the rapid rise in Thai Business to Business and Business to Consumer spends, as Internet retailing and trading are rapidly becoming the accepted way of conducting business with the rest of the world.

Thailand's online retail B2C expenditure per capita as per 2002 estimates by NECTEC (National Electronics and Computer Technology Centre) has remained at low levels, i.e. at US \$ 0.2 per person.⁵ This represents a tremendous growth opportunity. Thus, with the Thai e-commerce business sure to accelerate rapidly over time, the future of cost effective and hassle-

³ Extracted from <http://www.slideshare.net/pear1986/some-social-media-and-mobile-stats-in-thailand-2010>

⁴ Usana Chantarklum, Director, Customized Research, The Nielsen Company, Thailand.

⁵ www.internetnews.com

free Thai offshore Internet retailing looks very promising, boosted by rapid growth in credit card, personal computers and Internet usage levels.

The future of E-Commerce in Thailand is positive. Based on the study, it is noted that Telecommunication Consumer Protection Institute-Thailand under the National Telecommunication Commission (NTC) is providing different services to Consumers that include:

- Handling Complaints on telecommunication
- Conduct research of consumer protection on telecommunication
- Support consumer organisation in undertaking grass-roots awareness activities
- Conduct educational and awareness programmes for consumers

According to the information provided by FFC in the secondary data gathered under this study, the common consumer complaints related to phone & Internet services, and E-commerce in Thailand are:

- Unfair charges
- Unfair contracts
- Connection problems

In terms of Consumer Protection related laws for Electronic Commerce, the Consumer Protection Board has limited authority, as the provisions of these laws cannot be applied as consumer protection measures for electronic transactions. Further, the Unfair Contract Terms Act of 1997 does not sufficiently cover electronic transactions. Current laws may not be sufficient in the country with everything being virtual business situations.

For electronic transactions even a presentation of information of goods and services through media like general advertisement is directly meant to get back orders of such goods and services to the advertiser to limit expenses which the seller invests in marketing and specifies the goal of the presentation in the form of electronic media. Nonetheless, the important thing is the general information or description on any products or services should always be made to ensure and encourage informed decision making by consumers. Besides, in electronic transactions advertisements, a seller and/ or an advertiser should maintain the images of goods or services or ambiguous terms without deception.

Therefore, although the existing authority is applied to some electronic transactions, it cannot fully protect consumers. For example, the prohibition against marketing to people by calling or faxing to consumer numbers may not apply to emails.

1.3.4 Consumer Credit and Banking

Learning from the 1997 financial crisis, the financial system in Thailand is making significant developments with the introduction of the Financial Sector Master Plan by the Bank of Thailand in 2003. In general the Thailand's financial system can be classified into four major constituents, namely: i) commercial banks; ii) capital markets (including both the stock and bond markets); iii) government-owned specialised financial institutions (SFIs); and iv) non-bank financial intermediaries comprising finance companies, credit companies, life insurance companies, and various co-operatives. The consumer financial products in Thailand can be roughly categorised into 3 groups, namely capital market, money and lending market, and insurance.

Deposit, loans, e-banking, e-money and foreign exchange are products available in the money and lending market. In general, banks under the supervision of BOT offer these products and are governed by Commercial Banking Act, A.D. 1962. Both banks and non-banks operate hire purchase and leasing. For banks, the hire purchase and leasing businesses (financial lease) have to comply with the BOT's regulation under the Banking Act while non-banks activities will be under Civil and Commercial Code, A.D. 1929

Both life and non-life insurance in Thailand is regulated by the Office of Insurance (OIC) under Life Insurance Act, B.E. 2535 (1992), amended by Life Insurance Act, B.E. 2551 (2008), and Non-life Insurance Act, B.E. 2535 (1992), amended by Non-life Insurance Act, B.E. 2551 (2008). The insurance operators have to comply with Ministerial Regulation and Notification of the Ministry of Finance, Notifications of OIC and Notifications of Registrar.”

In order to protect equity and debt products' buyers, the Securities Investor Protection Fund has been established. Furthermore, a complaint to SEC can be filed in many ways. Examples are using an online form, letter, or calling the Help Centre. SEC also requires transparent disclosure of the information and possible risk to consumers. SEC, in addition, enforces that customer's fund and assets must be segregated from those of brokers.

For the money and lending products, regulators require financial institutions to establish and maintain clear procedures for handling consumer complaints. Financial institutions need to promote information disclosure regarding terms and conditions of financial services in the way that can be easily understood and compared by customers. They also have to ensure that their information disclosure relating to the financial position and operating results comply with the international standards. In addition, they must specify the details of consumer loan contract. In general, the following are the challenges or problems faced by consumers in Thailand in relation to credit or loans:

- Unfair contracts
- Unfair Interests
- Unethical debt collection

To protect depositors, Deposit Protection Agency (DPA) was established in 2008 under Deposit Protection Agency Act, B.E. 2551 (A.D. 2008) to replace the Financial Institutions Development Fund (FIDF). The blanket guarantee shall be gradually phased-out to limited coverage of 1 million Baht within 4 years as follows:

Table 1.1: DPA and blanket guarantee scheme

Year	Period	Coverage Amount
1	11 Aug 2008-10 Aug 2009	Full amount
2	11 Aug 2009-10 Aug 2010	Full amount
3	11 Aug 2010-10 Aug 2011	Full amount
4	11 Aug 2011-10 Aug 2012	Not exceed 50 million Baht
5	11 Aug 2012 onwards	Not exceed 1 million Baht

Source: DPA Agency

However, regulators have recently issued tougher guidelines on certain lending products, credit cards and personal loans, in order to protect consumers. The control was stemmed from complaints from credit card users and personal loan borrowers through various medium channels mostly on unlawful debt collection methods and overcharged interest and default rates.

At present, the counterfeit electronic cards, mostly credit cards, have been increasing. To prevent card fraud, the Bank of Thailand, Thai Credit Card Association and Banks Associations join hand and plan to issue awareness guideline for card issuers and customers. Apart from personal loans and credit cards regulation, the Bank of Thailand also issued certain criteria on housing loans in 2004. The rationale is not direct at consumer protection but the regulation aimed at economic policy purposes. As Thai economy has clearly begun to recover, new property projects emerged despite an oversupply condition. Bank of Thailand then moved to slow down a speculation on the high-valued property sector.

A request for bank loan for a house valued 10 million baht or higher will receive the loan not exceeding 70 per cent of purchased price. In Thailand, not only regulators of financial products have a direct responsibility to oversee the customer protection issues, but there is also the Office of Consumer Protection Board (OCPB) to be on hand to receive and help solve any violation of consumer rights. OCPB, a government agency, will either handle the complaint case on its own or seek co-operation with the involved regulatory bodies.

1.3.5 Environment

Achieving consumer protection through the rights of consumers to safe and healthy environment is also globally projected through the promotion of Sustainable Consumption and Production (SCP). As such, awareness building and SCP practices are important to consumer movement. In relation to environment, the areas of consumers' interests in SCP include:

- Recycling waste
- Harvesting rain-water
- Saving of energy through energy efficient products and technologies
- Reducing environmental impact through efficient public transportation

Thailand's Strategies on Sustainable Consumption and Production (SCP) have been developed to accommodate the 10th National Economic and Social Development Plan, which is effective from 2006 to 2011. The plan follows H.M. King Bhumipol's philosophy on sustainable development via sufficiency has three key components namely moderation, reasonableness, and self-immunity. SCP has been developed in conjunctions with other national strategies to ensure the success of 10th Plan implementation.

The National Economic and Social Development Board (NESDB) are responsible for formulating, implementing and evaluating national plans and strategies. NESDB, in collaboration with Thailand Environmental Institute (TEI), has drafted SCP strategy that includes road maps, and detailed work plans to be implemented by different agencies. NESDB acts as SCP coordinator between the cabinet and implementing agencies. The main activity in SCP for Thailand is to promote sustainable production by promoting cleaner

technologies. Thailand has initiated the green government procurement policy to promote production and consumption of environmental friendly products or “green products”.

Thailand's dramatic economic growth has produced new environmental challenges in this once-agrarian society. The country now faces problems with air pollution and water pollution, deforestation, soil erosion, water scarcity, and hazardous waste issues. According to the Thailand Environment Monitor 2003, solid and hazardous waste is a serious problem facing many of the urban and industrial areas of Thailand. Considerable progress has been made in the past decade to improve waste management practices in the country, but the unfinished agenda, including the following issues, remains challenging. In particular, there is a large untapped potential in recycling and waste reduction. Safe and effective municipal waste collection, treatment, and disposal systems are only just beginning to take shape in most areas of the country. Safe hazardous and infectious waste treatment and disposal systems need to be built to keep pace with the growth in waste generation. Sustainable financing for solid waste is still elusive and staffing limitations challenges government agencies.⁶

According to the World Bank Report on, 'Environment in East Asia and Pacific', the main target of industrial output has changed from domestic consumption to export. The industry-driven economy has an undeniable impact on the country's environment and on its natural resources to become a country with high potential of hazardous waste problem in recent years. Industrial growth has created high levels of air pollution in Thailand. Vehicles and factories contribute to air pollution, particularly in Bangkok.

In general, air pollution in Thailand could be attributed to the following sources:

- Vehicles — motorcycles make up around 75% of the vehicles on the roadside in Thailand; diesel trucks and buses also contribute many pollutants.
- Industry — Bangkok and the rest of the Central Region contribute between 60 and 70% of the country's industrial emissions such as power plants, which most energy production relies on burning of fossil fuels
- Open burning such as agricultural burning, garbage burning and open cooking
- Forest fires and trans-boundary haze

The Pollution Control Department and other agencies have developed standards and reduced air pollution from most sources. The standards focus has shifted towards adopting lower-emission vehicle engines, improving public transportation, and requiring factories and power plants to reduce emissions. In most areas of the country, air pollutants are now within acceptable levels according to national standards.

According to the Department of Health (1998), the available per person in Thailand was less compared to any other country in Asia, and that nearly one third of its available water was “unsuitable for human consumption.”⁷

⁶ For more information, refer to <http://www.worldbank.or.th/WBSITE/EXTERNAL/COUNTRIES/EASTASIAPACIFICEXT/THAILANDEXTN/0,,contentMDK:20206649~menuPK:333323~pagePK:141137~piPK:217854~theSitePK:333296,00.html>

⁷ Article published in the Environmental Health. June 1998. Vol. 1(9)

According to the report from the WHO World Water Day 2001, like air pollution, water pollution in Thailand is most serious in the populous Central Region, with high levels of industrial and domestic wastewater. The depletion of the water table around Bangkok has led to land subsidence. Coastal waters also face challenges. Domestic wastewater and industrial waste pollute the Gulf of Thailand. Water pollution due Industrial River pollution has been linked to the death of hundreds of thousands of fish and other aquatic life in the Nam Phong River.

For implementing the Local Agenda 21 (LA 21) in Thailand, a task force under the Environment Sub-committee, Municipal League of Thailand (MLT) was formed and was endorsed by the MLT in February 2000. The LA 21 Task Force emphasizes participatory and collaborative public and civil society partnerships, helping to build awareness, capacity and understanding of the multi-dimensional aspects of Sustainable Cities.

Based on the study, it was noted that Ecological Alert and Recovery Thailand-an NGO in Bangkok is working on Environmental Issues with specific focus on pollution, chemical contamination and even monitoring the free trade agreements between Thailand and other Countries

1.3.6 Health and Healthcare services

Health care system in Thailand is an entrepreneur based health system with public and private providers. Public health facilities have rapidly expanded nation-wide since 1961 when Thailand launched the first five-year National Economic and Social Development Plans (1961-1966). Private hospitals also play role in health services. They are mostly in Bangkok and urban areas. There are also wide spread of private clinics and polyclinics in urban areas, most of them are owned by public physicians. Since 1994, the numbers of hospitals and beds have been remarkably increasing. Bed to population ratio came up to 1:469 in 2004, while the doctor to bed ratio has dropped from 1: 15.3 in 1991 to 1:7 in 2004. Average bed occupancy ratio was 73%.

The infrastructure of the health care system expanded slowly. In 1942, there were only 15 provincial hospitals and 343 health centres. It was until 1956 that every province had a provincial hospital and there was a regional hospital in each region to act as a referral centre of provincial hospitals. These public health care facilities were financed by government budget which was not enough. For this reason, they were allowed to keep their own revenue for run their own business. Using an administrative area approach successfully did coverage planning for public health care infrastructure. There were 217 and 267 grade-I health centres at the end of the first and second plan respectively. Each grade-I health centres had a medical doctor working as a permanent staff member, and took care of people at the district level. In the third plan, grade-I health centres were changed to community hospitals and government set targets to reach “one hospital for every district and one health centre for every sub-district (Tambon)”. It took time until the fifth plan that Thai government could achieve districts coverage. In 1993 public health centres were close to people that they could access for services within one hour by walking. However, the problem of mal-distribution of health care providers among rural and urban areas still exists, and it affected equity in people’s access to care!

In 2008, MoPH enforced policy to upgrade all health centres (9,810 centres) at sub-district level to be health promoting hospitals to provide holistic health care for all age groups, all health status including deformities at health care unit, home, environment and community. Services include health promotion, disease prevention, primary care, basic medical care, chronic care and rehabilitation. This requires increasing in both number and competencies of health personnel to work at health centres.

The Number of health care personal i.e., doctors, dentists, pharmacists, and nurses have increased due to the strategy to increase emphasis on training of qualified healthcare personnel in the national plans in Thailand. Nevertheless the distribution of health personnel still is one of major concerns in the country. There is significant difference between Bangkok, the Capital of Thailand, and other provinces. There are more doctors, nurses, dentists and other health care professionals in Bangkok and urban areas. The workload was lower for the doctors who worked in other ministry hospitals or private hospitals than those who worked for hospitals of the Ministry of Public Health.

According to ILO Report 2006, health Policies in Thailand for continuous improvements has been closely tied to economic growth and to promote government strategic goal and objective as a result of the cold war period. The report outlines that, "before 1932 main concerns of the Thai Government were mainly focused on prevention services and controlling communicable diseases such as smallpox and cholera. Consequently, the health policy has changed to improve access to modern medical care after Thailand changed from the Absolute Monarchy State to a democratic state.

Health care financing in Thailand has a long history of evolution for nearly half of decade until Thailand initiated the Universal Coverage Scheme (UCS) for health care in 2002. It started from user fee with exemption, and gradually moved from this out-of-pocket payment to prepayment system.

Various forms of prepayment systems were introduced and tested in Thailand. The implementation has huge difference in terms of contribution, public subsidy, benefits and quality of services. Anyway, Thailand could reach the coverage of social protection in health around 70% with these pluralistic approaches, and there were weakness in terms of efficiency, quality and equity. Regarding movement of technocrats and civil societies, then UCS for health care was promoted as a national strategic policy. In 2001, a commitment came forward to rapidly raise the coverage of health care to all Thai citizens under the slogan "30 Baht to cure every disease" as one of key campaign promises, the government at that time provides Thai citizens the universal coverage for health care. As a matter of fact, the design to reach the universal coverage for health care is more comprehensive than the slogan. Later two action plans have been introduced by the Government to enable Thai citizens to come under the coverage. First is the expansion of the coverage with the Social Security Scheme. Second is the reform of the existing welfare scheme for indigent people and voluntary health insurance for self-employed people to the new compulsory scheme, "the 30 Baht scheme".

After the Universal Coverage Policy got introduced in April 2002, the social health protection scheme in Thailand is divided into three groups, schemes for public employees, schemes for private employees and scheme for the rest of Thai (informal sector). Currently, Public health protection schemes Cover all Thai citizen. Public employee benefit schemes cover 7% of the

population, The Social Security Scheme (SSS) covers 15% of population, and the rest (76%) are in the UCS. It should be noted that private health insurance companies play very limited additional role in Thailand due to their high premium rate and very strict under-write policies.

“Counterfeit medicines of both branded and generic products are well produced in Thailand and may include products with the correct ingredients but fake packaging, with the wrong ingredients, without active ingredients or with insufficient active ingredients,” says the WHO in a statement.

Medical Standards in Thailand guarantees one that it features internationally accredited medical facilities Thailand has deservedly earned an international reputation as one of the leading destinations for first-class medical care and clinical procedures. Patients from around the world enjoy impeccable levels of care and medical treatment in state-of-the-art hospitals certified to the most exacting standards. These hospitals are the envy of the world in many cases, staffed as they are by doctors and surgeons qualified to the highest academic and professional standards with some leaders in their chosen specializations. Hospitals and other medical facilities in Thailand pride themselves on their high standards, and many have subjected their premises and systems to the most rigorous classification by applying for accreditation and certification whereby a qualified standards organization distinct from the health care organization under review - assesses the hospital or facility to determine if it meets a set of standards and requirements designed to improve the quality of patient care. This voluntary process provides a tangible and visible commitment by the hospital to continually ensure a safe environment for its patients and staff.

Based on the study, it was identified that FFC and Health Consumer Protection Project at Chulalongkorn University are working on Health Issues relating to Consumers in Thailand.

1.3.7 Professional services

The Healthcare professionals in Thailand as regards to the number of doctors, dentists, pharmacists, and nurses have shown a gradual increase every year and ratios of health care personnel to population are improving. In Thailand, education system and qualification for medical personnel, dentists, pharmacists, nurses, and midwifery must be licensed pursuant to regulations of Medical Council, Dentist Council, Pharmacy Council, and Nursing council of Thailand respectively. These Health Care professionals are required to complete their degrees from education institutions accredited by Medical Council, Dentist Council, Pharmacy Council and Nursing Council accordingly.

Health care consumers may take complaints to government, MoPH or Non-governmental institutions for example Consumer Foundation and the relevant professional Councils for unsatisfied services from health care professionals or personnel. Conduct of medical care personnel is regulated by several laws and regulations, Medical Profession Act of B.E. 2525, Dental professions Act of B.E. 2537, Pharmaceutical Profession Act of B.E. 2537, Nursing and Midwifery Professions Act, the Amendment No.2 of B.E. 2540 and Medical Registration of B.E. 2542.

According to the ILO report, the distribution of health personnel is different among Bangkok and regions (North, Northeast, central and South); there are more doctors in Bangkok; number of population per doctors is highest in North Eastern region, which is the poorest

region. Workload was lower not only for the doctors but also nurses who worked in other ministry hospitals or private hospitals as compared to the MOPH hospitals. There have been a long history and a lot of measures to overcome this inappropriate distribution of health care personnel among rural and urban area since the first national socio-economic plan. These personnel preferred to stay in urban area. Increasing on training of qualified health care personnel alone was not an answer.

The MoPH started its effort to get more doctors to its 1st class health centre by providing voluntary grant for medical student and financial incentive. Nevertheless the situation was worst, during 60's decade; professionally qualified Thai medical personnel migrated overseas. People resented and called government to manage this problem of "brain drain". In 1968 government launched a new very high medical education fee and a compulsory measure that all medical students have to work for government for three years. Otherwise they have to repay government for 60,000 Baht. This fee now increases to 400,000 Baht (Chokewiwat, 1999). Finally, it applied to other health care professional i.e. dentist, pharmacist, nurse, and other paramedical personnel.

As Thailand's economy grew throughout the latter half of the twentieth century; lawyers, attorneys, law firms, and legal services became increasingly essential for business operators. The legal profession in Thailand is divided into 3 categories namely: Thai Judges, Thai Public Prosecutors and Lawyers. Judges in Thailand are recruited by the judicial commission and are appointed by His Majesty the King Bhumibol. Law graduates intending to be public prosecutors must have qualifications required by the Regulation of Public Prosecutor Officers Act B.E. 2521 (A.D. 1978). Barristers-at-Law must be at least 25 years of age, be of Thai nationality, pass the Thai Bar Examination and pass a highly competitive examination given by the judicial commission.

Unlike the United Kingdom, lawyers in Thailand are not divided into barristers and solicitors, nor are they required to pass a bar examination, as they would be in the United States. To become a lawyer, the Lawyers Act B.E. 2528 (AD 1985) defines a lawyer as "a person who has been registered as a lawyer, and a license has been issued to him or her by the Law Society of Thailand." Lawyers in Thailand are only reserved for Thai nationality.

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

In this study, the discussion of professional services acquired by consumers is limited to the two most commonly sought after in the ASEAN region, namely medical and legal professional services.

1.3.7.1 Medical Professionals

Apart from access to medical and dental services, CP also provides means against possible incidence of professional negligence, malpractice or unethical practices. In forming a Doctor-Patient relationship, it is necessary for both consumers and doctors to know about their duties and obligations, understanding Doctor-Patient contract and understanding Professional Negligence.⁸ Apart from negligence, consumers, in general, view that doctors have general duties to provide them with relevant information when they seek treatment such as:

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

The advances in e-health as another form of delivery of healthcare services would also have an impact on consumers' rights and access to medical care. As today's consumers become more empowered through the sharing of knowledge and information on the internet, consumers have indirectly become partners in their own health and take advantage of online processes, health portals, and doctor's or physician's web pages and e-mails.⁹ The new breed of internet-savvy consumers would expect more integrity and ethics to boost this new form of doctor-patient relationship, through increased efficiency, reliability and accuracy, as well as strengthened communication between doctors and patients.

Duties and obligations of doctors are declared in a number of national laws and international declarations and codes of ethics such as:

- Declaration of Geneva (Physician's Oath)¹⁰
- Declaration of Helsinki - Ethical Principles for Medical Research Involving Human Subjects¹¹
- International Code of Medical Ethics¹²

⁸ Also see [Consumer Protection Act and Medical Profession - Doctor - Patient Relationship](http://www.medindia.net/indian_health_act/consumer_protection_act_and_medical_profession_doctor_patient_relationship.htm#ixzz1BEcCnFjA)
http://www.medindia.net/indian_health_act/consumer_protection_act_and_medical_profession_doctor_patient_relationship.htm#ixzz1BEcCnFjA

⁹ Marion J. Ball and Jennifer Lillis. (2001). *E-health: Transforming the Physician/Patient Relationship*. The International Journal of Medical Informatics 61 (1): 1-10.

¹⁰ Declaration of Geneva (1948). Adopted by the General Assembly of World Medical Association.
<http://www.cirp.org/library/ethics/geneva/>

¹¹ Adopted by the 18th WMA General Assembly, Helsinki, Finland, June 1964.
<http://www.wma.net/en/30publications/10policies/b3/index.html>

¹² Adopted by the Third General Assembly of the [World Medical Association](http://www.wma.net/en/30publications/10policies/b3/index.html) at London in October 1949. (World Medical Association Bulletin, vol. 1, no. 3, October 1949, pp.109, 111).

1.3.7.2 Legal Professionals

A consumer is likely, at some point, to render the services of a lawyer or an advocate. It is quite common for consumers, in general, to use the services of lawyers or advocates in writing wills or detailed estate plans, or assisting in filing the legal forms required to create a business. Consumers may also render the services of lawyers or advocates in court on family matters, such as divorce or custody issues, or defence in cases they are accused of a crime or being sued.¹³

For consumers or clients, lawyers or advocates have a duty to advise and help them understand the legal system. In doing so, consumers see that lawyers work to protect their legal rights as clients, help them solve legal problems, defend and guard them, as clients, against abuses of potential rights violators.

Thus, it is seen that the services of legal professionals have a relatively direct importance for and implications on consumers. Legal professional services are particular sought by consumers to represent their interests in the court-based system. The advancement in cross-border transactions may further necessitate consumers to render professional services in cross-border legal representation in the era of globalization.

Before rendering legal professional services of a lawyer or an advocate, consumers are generally concerned about a number of factors such as:

- Background, qualifications and experience
- Disciplinary history
- Legal requirements for practicing law to govern their professional conducts
- Service fees (hourly, flat fee, on retainer, or contingent fee)
- Professional liability

In general, consumers also expect their hired lawyers or advocates to

- work hard to represent them
- apply good judgment and remain neutral as to not having any conflicts of interests
- perform according to their desired lawful goals
- respect the confidentiality of information provided or shared
- charge reasonable fee
- provide updates of their cases or positions
- be fair, respectful and unbiased regardless of their background (race, age, gender, national origin, or disability)

¹³Thomas J. Moyer et al. A Consumer's Practical Guide to Managing Relationship With a Lawyer. <http://www.supremecourt.ohio.gov/publications/consumersguide.pdf>

For the purpose of CP, however, it is important to note some concerns of consumers in relation to legal services. In other countries, for instance, some disciplinary actions against the identified lawyers and firms include:¹⁴

- *“Charging excessive fees and disbursements in connection with the preparation of a Sale and Purchase Agreement and a Loan Agreement.”*
- *“Failing to act in the best interests of his client.”*
- *“acting in gross disregard of his client’s interests”*
- *“deceiving, committing breach of trust and acting mala-fide in relation to the preparation of loan documentation for his client”*
- *“Failing to attend diligently to the work at hand despite repeated promises to the client.”*
- *“abusing his position as an advocate and solicitor in that he secured the execution of a charge by the Complainant by misrepresentation and deception”*

There were, however, no official reports, cases, data, figures or statistics on any of the above incidences in Thailand, found during the course of this Study.

¹⁴ See examples on the Malaysian Bar Website (Summary of Orders made by the Disciplinary Board at its 157th to 161st Board Meetings). Retrieved on 17 Jan 2011.

2. METHODOLOGY

2.1 SCOPE

In developing the capacity building roadmap on consumer protection for ASEAN, this study covered two main areas of consumer protection. It looked at consumer protection laws in the country vis-à-vis enforcement, and the relevant agencies' capacity building needs in carrying out the relevant laws.

The study focused mainly on the aspects of consumer protection that been specifically identified by AADCP II as being of particular relevance to the ASEAN's goal of becoming a single market (Table 2.1). As such, it has been mutually agreed that in addition to the general consumer protection measures, six key consumer areas were specifically addressed in the project. Table 2.1 describes the 6 areas that were covered in this study.

Table 2.1: Selected Key Consumer Areas and Issues of Focus.

<u>Key consumer areas</u>	<u>Specific aspects to be covered</u>
Product Safety and Labelling :	Consumer products including Food (excluding drugs and medicines)
Phone & Internet services and E-commerce :	Including broadband services, online purchase, rates and charges, access, quality of services.
Consumer Credit and Banking :	Banking and financial institutions providing loans; money lending, hire purchase or other financial assistance to consumers.
Environment :	Policies, laws and programmes for safe and healthy environment, products or services related to water, energy and air
Health care services :	Public and private health care services, pharmaceuticals.
Professional services :	Laws related to chargeable fees and accountability with regards to legal and medical professions, consumer redress/ access

Across all consumer protection relevant laws, the study also examined these areas:
 Legal provisions that provide for consumer redress vis-à-vis the mechanisms already in place.
 Initiatives and best practices on consumer protection that are being implemented both by relevant government agencies, non-governmental and business organisations.

For the capacity building needs, the study covered the enforcement agencies that are principally in-charge of carrying out the provisions of the main Consumer Protection Law and of the six major areas as listed above. Particularly, the agencies' capacity to enact, enforce and implement relevant laws was studied. The capacity building needs of nongovernmental organisations and business groups in the country were also considered.

2.2 APPROACHES

The approach in carrying out the study was hinged on the review of the Formal Operating Context (FOC) vis-à-vis the Actual Operational Context (AOC) of consumer protection in

the country. The analysis and findings from this exercise served as the basis in developing the recommendations for capacity building needs in consumer protection. The FOC covered the assessment of the national consumer laws and regulations, including those that are being drafted or are awaiting enactment, National consumer protection programmes and initiatives plus Key stakeholders' views and analysis. While in the AOC of consumer protection legislations and programmes, the following activities were carried out:

- Evaluated how well laws and programmes are actually implemented and enforced, and
- Review human and institutional capacities to draft and enforce consumer legislations and implement related programmes.

Reviews of available records, databases, reports and documents related to consumer protection, including stakeholders' annual reports, were also performed. Soft and hard copies of laws, reports and publications were obtained where possible.

The mapping of laws and regulations in Thailand was carried out by the focal points, Foundation for Consumers (FFC). FFC is CI's Member in Thailand. This exercise was carried out throughout the month of September 2010. The focal points were tasked to identify relevant local stakeholders for the General Survey, Key Informant Interviews and the roundtable discussion. FFC also assisted in making all the necessary arrangements and schedule during the field visits.

The approach towards constructing the roadmap on the capacity building needs in consumer protection in Thailand was also carried out through the fundamental understanding of the current the human and institutional gaps in implementing or carrying out consumer protection activities. Reviews of available records, databases, reports and documents related to consumer protection, including stakeholders' annual reports, were also performed. Soft and hard copies of laws, reports and publications were obtained where possible.

2.2.1 Capacity Building Needs Assessment on Consumer Protection

In order to achieve this objective, the study adopted an overall approach of the Formal and Actual Operating Contexts. The FOC involves legislation, policies and regulations that govern the responsibilities of the governments, businesses, consumers, and other stakeholder in the area of consumer protection. The FOC also includes the structures related to consumer protection. On the other hand, the AOC relates to the protection levels actually experienced by consumers, viewed from a rights-based perspective. The AOC includes governance and consumer welfare matters e.g. how enforcement mechanisms actually operate, the nature of consumer complaints/injuries and the nature of redress and compensation which consumers actually obtain.

The assessment of capacity building needs (CBN) constituted the following activities:
System level: Reviewed the principal legislation and mapped other related laws covering consumer protection, institutional structures specifically for the purpose of consumer protection laws and policies that explicitly protect the rights of consumers such as Ombudsmen schemes, tribunals and industry based complaints handling systems. Private "structures" such as complaint cells in multi-national companies were not included as the motivation behind such structures is not always in the public interest.

Organisational level: Identified gaps in institutional capacities such as roles and functions including monitoring and implementation of policies, laws and regulations, operation procedures, budget, number of staff, infrastructure, management and leadership,
 Individual level: Identified gaps in human capacities knowledge, experience, competencies, and skills.

The capacity building needs (CBN) were identified based on the existing gaps and deficiencies in the current (actual) operating context of consumer protection vis-à-vis a comprehensive protection regime at the System, Institutional and Individual levels. The gaps were then translated into the areas for capacity building that were recommended in order to attain the desired outcomes. The desired outcomes in implementing CP at the national level were benchmarked at the different states of needs and capacities for the different stakeholders and were tailored in order to harmonise CB strategies towards the desired outcomes at the regional level.

2.3 DATA COLLECTION PROCESS

The following research activities were implemented in carrying out the mapping of available records, database, reports and documents including annual reports:

- Desk research of consumer laws, programmes, initiatives and reviews.
- A general survey of national laws, programmes and implementation with national government stakeholders as well as about their issues and needs and expectations.
- Key informant interviews in relation to consumer protection implementation and about issues and gaps in national consumer laws and enforcement.
- Roundtable discussions with key stakeholders

The Study applied four data collection instruments to support and complement the accuracy and reliability of information gathered as follows:

- Instrument 1: Secondary Data Collection
- Instrument 2: General Survey Questionnaire
- Instrument 3: Key Informant Interview Questionnaire
- Instrument 4: Roundtable Discussion Program

2.3.1 Secondary Data Collection

Secondary Data Collection instrument was designed by CIKL with the main objective of generally mapping of consumer protection status in Thailand. The data was collected by the Project focal point, FFC in Thailand throughout the month of October. Further processing and refinement were made for the purpose of this final report.

Secondary data related to capacity building needs and consumer protection-related matters from various agencies, ministries and organisations in all countries involved in the study were also gathered and reviewed. This includes Acts and laws; rules and regulations; codes of conduct, government policies and consumer protection programmes. The sources of information include annual reports from the relevant agencies and any report or study related to this study, including the preliminary findings of the study conducted by CI in 2009 entitled

“*The Asia Pacific Consumer Laws Analysis*” where baseline information of consumer protection and competition laws in Asia Pacific have been established.

2.3.2 General Survey

The General Survey (GS) instrument was designed by CIKL where the questionnaire was structured to map information on consumer protection laws, regulations, policies, codes of conduct, consumer protection programmes and initiatives; redress mechanisms; human and institutional gaps in the selected consumer protection areas, i.e. product safety and labelling, phone & internet services and E-commerce, consumer credit and banking, environmental issues, health care, and professional services. Other areas of interests expressed by the respondents were also noted to be taken up for further deliberations during KII and RTD.

The GS was distributed locally by FFC throughout the month of October 2010. The stakeholders targeted for the general survey were identified by FFC.

2.3.3 Key Informant Interviews

In the later phase, another instrument that of the Key Informant Interviews (KIIs) was used to record the data for filling further gaps in analysing the data on different areas. KIIs were carried out in one to one settings during the week from 26 to 29 October 2010 by physically visiting the key informants in their respective offices in Thailand.

A total of 10 interview sessions were carried out with different stakeholders. These include:

- Office of the Judiciary
- Ecological Alert and Recovery Thailand (EARTH)
- Foundation for Consumers
- Health Consumers Protection Project
- Thai Retailers Association
- Office of Consumer Protection Board
- Academic Network for Consumer Protection
- Department of Internal Trade
- Thai E-Commerce Association
- Telecommunication Consumer Protection Institute

Confidentiality Notice: Most of the key informants intended not to share their identity for the information provided during the interviews. So their names and respective positions are kept confidential.

2.3.4 Roundtable Discussion

The final step of validating of the findings from the Literature Review, General Survey and KIIs was carried out through a Round-Table Discussion (RTD) that was held in Bangkok on 29 October 2010 at the Office of the FFC in Bangkok. A total of 15 representatives including staff of FFC attended the RTD to validate the findings. The key participants among them include:

- Dr. Jiraporn Limpananont, President, Foundation for Consumers
- Mr. Prawit Leesatapornwongsa, Director, Telecommunications Consumer Protection Institute

- Mrs. Wana Visetsiri, Director of the Legal affairs Section, OCPB
- Ms. Wimonrat Rukkhaworakul, Investigation Officer, OCPB
- Ms. Kuncharee Tanarak, Policy & Plan Analyst, OCPB
- Dr-Ing Paiboon Choungthong, Academic Network for Consumer Protection
- Mrs. Kannikar Bunteongjit, Deputy Secretary General, National Health Commission Office of Government of Thailand
- Dr Sirikiat Liangkobkit, Population Health & Risk Reduction Section, Thai Health Promotion Foundation(a Government Agency)
- Representative from Thai E-Commerce Association
- Ms. Saree Aongsomwang, Secretary General, Foundation for Consumers

2.4 DATA ANALYSIS

2.4.1 Secondary Data Analysis

The review and analysis of policies and laws entailed the identification of existing consumer protection related laws, the scope of the relevant Acts such as the areas or elements covered, how the Act is implemented and regulations enforced; and how consumers seek redress under the Act. In Thailand, the principal Consumer Protection Act and the enforcement of this Act, along with the others were also examined through state actions or Ombudsmen schemes and through private action.

The analysis of the Principal Consumer Protection Law was carried out by mapping the provisions of the key consumer rights components applying CI's expert, John Wood's Matrix Model on "*What Consumer Laws Should Do*"¹⁵. The process also involved reviewing of consumer protection regimes in other parts of the world where consumers enjoy a fairly higher degree of protection. Legal, structural, institutional and regulatory arrangements for consumer protection found in the European Union, Australia, United Kingdom and United States of America were examined with a view to establish a basis for a consumer protection regime that would be appropriate for the ASEAN region.

In analysing the other aspects of data and information collected, it was necessary to take into account the socio-economic, cultural and political characteristics of Thailand. By drawing upon examples of good practices from the more advanced consumer protection regimes and adopting or adapting them to the requirements of the country, key components of a comprehensive consumer protection regime were identified.

2.4.2 General Survey Analysis

Six types of analysis were performed on the data from the General Survey using the 17.0 version of Statistical Package of Social Sciences (SPSS) in order to identify priority areas for capacity building and gaps in consumer protection (Table 2.2).

¹⁵ Matrix developed by John T.D. Wood (1996).

Table 2.2: Types of Statistical Analysis Used

Type of Analysis	SPSS analysis
Normality test of the data	Kurtosis and skewness, P-P Plot
Reliability test of the data	Cronbach alpha
Organisational profile and consumer protection measures	Frequencies
Level of difficulty in implementing consumer protection programmes and activities	Frequencies, Index
Capacity building needs and form of assistance required	Frequencies, Index
Relationship between level of difficulties and capacity building needs	Pearson correlation, T-Test

Qualitative information obtained from Key Informant Interviews and Key Informant Interviews was used to substantiate or supplement quantitative information obtained from the general survey. The open-ended Key Informant interviews and the Round Table Discussions served as a sounding board to fill in the gaps in formation, to check the validity and relevance of the capacity building needs of the AMSs.

Based on the findings from the General Survey, secondary data collection, key informant interviews and roundtable discussions at country levels, strategies and recommendations as well as a road map for strategic thrust areas for consumer protection was developed for the short, medium and long terms.

2.4.3 Capacity Building Needs Analysis

The identification of the capacity building needs was accomplished by making a systematic analysis of the information gathered through the general survey, especially with regard to difficulties expressed by respondents, and the types and forms of assistance which they needed. The information gathered from the above-mentioned analysis was used to identify weaknesses and gaps in the existing operating context for consumer protection among the stakeholders in the country.

An index was developed to measure capacity building needs, using an interval scale of 1 to 7. Level 1 is the least priority and level 7 is the highest priority. The Index level was based on the total scores (i.e. the total computed score for all items related to capacity building needs) and the mean for each area of capacity building need. The mean for the total score is called the Index for each item listed in the questionnaire.

The Index was also used to measure the level of difficulty in implementing consumer protection programmes and activities, and the preferred forms of assistance required by the stakeholders for work on consumer protection.

By making reference to a proposed framework for comprehensive consumer protection regime, it was possible to identify capacity building needs that would assist Thailand to make

the transition from the current state to the desired state of consumer protection at the national and regional levels.

2.5 PROFILE OF STAKEHOLDERS

At the national level, stakeholders were identified by the focal points based on their direct and indirect involvement in consumer protection and the six main consumer areas that have been specified. These stakeholders include:

- The government entities (the relevant ministries, particularly with relevance to the sector specified, including consumer tribunals and courts;
- Local authorities
- Country-based regional Institutions or inter-government organisations such as ASEAN Secretariat (ASEC) in Indonesia, Competition, Consumer Protection, and IPR Division (CCPID), ASEAN Committee on Consumer Protection (ACCP) and SEACC;
- Policy makers (Members of parliament)
- Training Institutes for government officials;
- Industries/business associations;
- National non-governmental organisations (NGOs)/civil society organisations (CSOs) including consumer associations,
- Academic or think-tank institutions such as ASEAN ISIS
- Professional bodies of legal and medical services

Table 2.3: Profile of the General Survey Respondents.

Sector	Name of Organisation
Government	Office of the Judiciary www.coj.go.th
Government	Department of the Internal Trade (DIT) www.dit.go.th
Others ¹⁶	Thai Retailers Association
Government	Thai Industrial Standard Institute(TISI) www.tisi.go.th
Government	Office of the Consumer Protection Board (OCPB) www.ocpb.go.th
NGO	Foundation for Consumers (FFC) www.consumerthai.org
Academic	Health Consumer Protection Project, Chulalongkorn University
Academic	Academic Network for Consumer Affairs
Private	Thai E-Commerce Association www.thaiecommerce.org
NGO	Office of Ecological Alert and Recovery

¹⁶ Others: Business Associations, Think Tank. Academia etc.

Others	Telecommunication Consumer Protection Institute
Government	Office of the Insurance Commission www.oic.or.th
Government	Food and Drug Administration www.fda.moph.go.th

2.5.1 Overview of Consumer Movement

The 1997 and the current 2007 Thai Constitutions have mentioned about the establishment of independent organisation as a new mechanism to play a key role in proposing policy recommendations to national decision-makers as well as to promote ethical trade practices. As outlined, there is a need to establish such an independent consumer organisation (ICO) to function autonomously including its Provincial Independent Consumer Bodies (PICBs). In the consumer groups' views, the ICO and the PICBs should not only play a leading role by issuing recommendations to policy/decision-makers but also by performing other missions of consumer protection. These include:

- Research for policy development
- Being a consumer watchdog
- Enhancing civil awareness and complaint handling related to protection of consumer rights.

It is also felt that the ICO, the PICBs and their secretariat must not be controlled by the central government (such as the Prime Minister's Office and the Office of the Consumer Protection Board).

Foundation for Consumers (FFC)

The leading non-government consumer organization in Thailand, Foundation for Consumers, (FFC) is founded in 1994 by the CCPN (a non-governmental and non profit organization, founded in 1983, which coordinates health groups in the country). The FFC works directly with consumers and consumer protection policy advocates. Its objectives are (1) to coordinate consumers and consumer organizations, (2) to promote, empower and strengthen consumers and consumer organizations in their participation in consumer protection, (3) research on and study of consumer issues for policy and (4) to coordinate and co-operate with national and international consumer protection organizations.

The FFC is reported to have contributed to the increasing number and quality of other consumer organizations such as the Complaints and Legal Assistance Centre. The centre not only handles individual consumer matters but also tries to work at the policy level on protection scheme to help improve the legal system by solving consumer problems in a timely manner. Interesting cases are published in annual media platforms including in the consumer magazine "Smart Buyer Magazine". This magazine was first published in 1994 as a bimonthly magazine known as the leading magazine on consumers' rights, consumer protection, product testing results, misleading and condemned products. The magazine is exclusively distributed to more than 12,000 subscribers.

Coordinating Committee on NGOs for Primary Health Care

Established in 1983, the committee is composed of representatives from such NGOs as the Rural Doctors Club, the Drug Study Group, the Rural Pharmacists Club, etc. Major activities implemented include making policy recommendations on consumer protection such as

banning tobacco advertisements in the media; revoking such unsuitable drug formulas and some paediatric drugs; banning caffeine from certain analgesics; protesting against the amendment of the B.E. 2522 (1979) Drug Act; campaigning on the use of generic names of drugs; implementing the 'No Trade Name Project'; educating the public through print media (newsletters, journals, booklets), posters, videos, slides; monitoring of programs implemented as planned by various agencies; and suggesting options to the public such as alternative medicine, herbal medicine, massage, and natural agriculture.

Consumers Support Project of the National Women's Council

The National Women's Council Project as listed in the Thai Women Website is under the Patronage of Her Majesty the Queen. This is a long-term project aimed at providing consumption education to consumers of all ages and sexes, in and outside school, emphasizing justice, safety and economy. Major activities carried out include publishing a magazine "Smart Consumption" (Chalad Boriphok), training women's leaders as good consumers' leaders, and inspecting consumer goods such as food with colouring additives and detergents.

2.6 LIMITATIONS

Due to the time constraints, some relevant stakeholders were not able to participate in the survey, key informant interviews and the RTD. Further, the availability of detailed materials primarily depended on the resources and publications or reports available through Internet search, which would be further limited by availability in English version. Data were also mainly based on secondary compilation by the focal points and Key Informants and general survey respondents, who were selected by the local focal points. However, it was also noted during the course of interviews, the participants might have limited knowledge or experience in answering some of the questions pertinent to areas beyond their scope of functions.

Complete data representation on enforcement was also critically lacking in this report due the absence of participation of enforcement unit or departments. Only small passing reference and general remarks were made by respondents or key informants, without any specific mentioned of or reference materials, cases or statistics provided.

3. MAPPING AND SITUATIONAL ANALYSIS OF CONSUMER PROTECTION LAWS AND PROGRAMMES

3.1 LAWS AND REGULATIONS RELATED TO CONSUMER PROTECTION

In realising the goals and objectives of the ASEAN Economic Blueprint to drive towards a people-centred ASEAN Community, consumer protection is considered an essential means in its market integration agenda.¹⁷

In mapping the relevant laws, this study examines specific or general provisions that capture or provide for access, safety, quality, of products and services in relation to the 8 fundamental rights of consumers as per the UN Guidelines (see Chapter 1, Section 1.1), including consumers' and (products and services) providers' responsibilities and obligations. Provisions that imply authorities and their enforcement power are also examined in line with the rights for consumers to seek redress.

The Constitution of the Kingdom of Thailand of 2007 has stated provisions relating to consumer protection i.e. protecting the consumer's right to receive actual information and the right to make a complaint for remedy, including promoting formation of the autonomous organisation for consumer protection consisting of consumer representatives. Section 61 states that *"The right of a person who is a consumer to receive actual information shall be protected and a consumer shall have the right to make a complaint for remedy of damage and to amalgamate with another so as to protect consumers' rights."*

There shall be an autonomous consumer protection organisation which is not a State agency consisting of representatives of consumers for giving opinions to a State agency on the enactment and issuance of laws, rules and regulations and on the determination of various measures for consumer protection, and for examining and making a report on any act or omission related to consumer protection. The State shall provide financial support for an operation of such autonomous organisation."

Moreover, the constitution also prescribes that the state has to promote the free market system based on the marketing mechanism to supervise fair competition, protect the consumers and prevent direct and indirect monopolies. Section 84 (5) also states provision on *"Regulating business activities for free and fair competition, anti-monopoly whether direct or indirect monopoly, and consumer protection"*.

3.1.1 Principal Consumer Protection Act

The Consumer Protection Act (CPA) of 1979 and its revision in 1998 (2nd version) prescribe the right of the consumers in five aspects i.e.

¹⁷ ASEAN Secretariat (2009).

- The right to receive correct and sufficient information and description as to the quality of goods or services.
- The right to enjoy freedom in the choice of goods or services.
- The right to expect safety in use of goods or services.
- The right to have the injury considered and compensated in accordance with the laws on such matters or with the provision of this Act.
- The right to receive a fair contract

The Act is being revised for its 3rd version and is presently (December 2010) in the consideration process of the House of Representatives.¹⁸ In principle, the CPA provides protection in three different areas: consumer protection on advertising, labelling and contracting. According to the CPA, consumers have the rights to have full knowledge about the goods that they are purchasing, or the services they are obtaining. The rights of consumers to be informed is facilitated through appropriate Labelling of goods, whether manufactured in Thailand or imported. The OCPB ensures labelling of products is in compliance with the Consumer Protection Act, where the labels should display adequate description, indicating the name or trademark of the manufacturer or importer, the place or location of manufacture, information of the goods and, in case of imported goods, marks indicating country of origin. Labels are to be accurate and not misleading. The provisions on labelling prohibits false or misleading information, such as a false expiry date or to knowingly sell products beyond their expiry date or to state that a package contains more items than it actually does.

Under the Section 14 of the CPA, the Labelling Committee has authority to protect consumers in respect of labelling. The CPA prescribes that it is the duty of the business operators to provide material facts of goods for the benefits of consumers in enabling them to know the correct information, news, as well as quality description of the products. The statements shown in labels must contain the true statements and must not contain information that may mislead as to essential element of goods. The Labelling Committee also has power to designate the following goods as controlled goods for the purpose of labelling:

- Goods produced for sale by factories in accordance with factory law
- Goods ordered or imported into the Kingdom for sale
- Goods which, by nature or by the use of such goods, may cause physical or mental or health danger
- Goods which are regularly used by the general public and the labelling of which would be beneficial to consumers

¹⁸ The Draft Consumer Protection Act (3rd version) includes important elements on “empowering the Consumer Protection Board” for the recall of the products which might be harmful to the consumers from the market, including the return of the products out of the country in case of the products that have been ordered or imported in the country for sales, and also “empowering consumer protection foundations” which have been certified by the Consumer Protection Board to have the right in consumer case prosecution.

The Labelling Committee also has power to establish the principles and conditions in preparing labels and is empowered to direct the business operator to correct or to discontinue the use of label that is not in accordance with the principles.

In order to enhance the rights of consumers to choose, traders must enable consumers to make informed decisions. Therefore, the CPA requires advertisements to be truthful, honest, decent and legal. This CPA makes it an offence for advertisers to create advertisements that contain falsified facts, that are deceptive, conceal or omit important facts, or that establish false impressions. Promotional offers, for instance, are required to provide clear and adequate information regarding the conditions of the offers, the beginning and ending dates of such offers, etc. Otherwise such ads can be (and have been) reported, investigated and considered as violating the CPA. Also, the CPA prohibits advertisements that encourage illegal actions, that have immoral suggestions or statements that debase the national culture or disrupt public unity. Advertisements not in compliance compel the Board on Advertising to take actions against offending advertisers.

Statements on advertisements which are considered to be unfair to consumers are:

- false or exaggerated statements;
- misleading statement in the material part concerning goods or service, whether or not by using or referring to technical report, statistics, or any other thing which is not true or which is exaggerate;
- statements which, directly or indirectly, encourage actions against the law or moral or which lead to deterioration of the national culture;
- statements which will disunite or deteriorate the unity of the public; and
- other statements as stipulated in the ministerial regulations

If the Advertising Committee considers that any of statement is against the consumer protection law, the Committee is empowered to issue any of the following orders:

- To rectify the statement or method of advertising;
- To prohibit the use of certain statements appeared in the advertising;
- To prohibit the advertisement or the use of such method in advertisement;
- To order for an advertising to be made in order to correct the understanding of the consumer who might have already been misled, in accordance with the rules and procedures prescribed by the Advertising Committee.

The right to safety and the right to redress are endorsed in the CPA, where it ultimately says that anyone who intentionally misleads the origin, condition, quality, volume or other specifications of goods or services, and advertises or applies false labels or misleading statements shall be sanctioned by fine or imprisonment.

Article 36 of the Consumer Protection Act B.E. 2522 (1979) gives the power to the Consumer Protection Board to carry out the following acts to deal with any goods, which may cause dangers. The Board may direct the business operator to conduct a test or verify the status of any suspected goods likely to injure consumers. If the result of the test shows that the goods may be harmful, the Board has the power to prohibit the sale of such goods or may direct the business operator to correct the goods under the conditions stipulated by the Board. In case

the goods could not be changed, the Board has the power to direct the business operator to destroy or the Board may arrange for destruction of the goods under the business operator's expense. Further, under urgent circumstances, the Board also has the power to prohibit the sale of such goods temporarily until a test or verifying is made.

“Unfair Contract Terms” as discussed in Section 1.3 affects a great number of consumers in Thailand. As such, the CPA was amended in 1998 to cover an additional right of consumers to receive fair contract terms. The Contract Committee is empowered to control and observe the contract made between business operators and consumers. In cases where a contract is made in foreign language, a translated version in Thai Language would be required. Violation of such requirement must be subject to criminal punishment of imprisonment for not more than 1 year or fine not exceeding Baht 100,000, or both of such imprisonment and fine.

In this study, a general analysis on Consumer Protection Act of 1979 was made using Wood's (1996) Consumer Laws Matrix (*please see Appendix 6*), which is based on the parameters of the 8 consumer rights. The analysis suggests that the CPA contains strong provisions protecting consumers of their rights to safety, to be informed, to choose and to redress. However, provisions relating to consumer education and establishing mechanisms to monitor consumer awareness would need to be strengthened. This comparative analysis also suggests that laws are needed to ensure consumers are aware of their responsibilities.

3.1.1.1 Implementing Agencies

The Office of Consumer Protection Board was established under the Consumer Protection Act B.E. 2522 (1979) which was amended in 1998. Currently, the Office of Consumer Protection Board is under the Office of Prime Minister and has the following powers and duties:

- to receive complaints from the consumers who suffer hardship or injury resulting from the acts of the businessman for further submission to the Board;
- to follow up and scrutinise actions of the businessman who may do any things infringing the consumer's rights, and arrange for testing or verifying any goods or services as it thinks proper for the protection of the consumer's rights;
- to encourage or conduct the study and research on the problems concerning the consumer protection with other academic institutions and other agencies;
- to promote and encourage the providing of education for the consumers at all levels on safety and harm from the goods or services;
- to propagate technical information and provide educational information to consumers in order to instil the consumption habit which promotes health, is economical and maximises the utilisation of natural resources;
- to co-operate with the government offices or state agencies which have the power and duty to control, promote or prescribe the standard of goods or services;
- to do any other acts as entrusted by the Board or the ad hoc committees

The Advertising Committee, established by the Consumer Protection Act B.E.2522 (1979) has the power to control and monitor advertisement of goods and services, ensuring fair practices for consumers by prohibiting statements which may be detrimental with regards to the origin,

condition, quality or description of goods or service, as well as the delivery, the procurement or the use of goods or services.

Updated information regarding the Office of the Consumer Protection Board implementation

- The Consumer Protection Act B.E. 1979 recently has been revised for its 3rd version. The revised version has already been published in the Government Gazette on 8 March 2013. The Act empowers the Consumer Protection Board to recall from the market products which might be harmful to the consumers, and will empower consumer protection foundations which have been recognized by the Board to have the right in consumer case prosecution.
- The OCPB has set out additional measures to solve and prevent the problem of unsafe products by putting in place the policy to carry out this problem in both legal and preventive measures. The OCPB has set up the “Unsafe Product Verification and Alert Centre (UPVAC) to work in parallel with the PL Law. The UPVAC will provide useful information to consumers and will work in coordination with other related agencies in testing the products which might be harmful to the consumers.
- The OCPB has initiated the symbol called “CONSUMER PROTECTION GUARANTEE” to build up consumer confidence and to make remedy for the consumer with speedy manner. This symbol will be given to qualified business operators for examples, direct selling business, non-formal education and gold ornament business who fit the criteria defined, which would guarantee that, in case of being affected such product has a good redress process and will be responsible for the consumers. This would help creating confidence for consumers in making their choices for the purchase of goods or services, and to protect them from being taken advantage of by irresponsible manufacturers.

3.1.2 Laws on Product Safety and Labelling

The Thai Food and Drugs Administration (FDA) have been mandated to ensure that food, drugs, cosmetics, medical, narcotic substances and household hazardous substances available to consumers are of a standard quality, efficacy, and safety. The main tasks of the FDA are to control and to monitor the manufacturing, importation, transportation, storage and sale of food and drugs.

The Food Act B.E. 2522 states provisions related to the FDA main responsibilities to ensure the quality and safety of food, which are summarised as follows:

- setting up technical regulations (under SPS Agreement) and specifications as well as hygienic and labelling requirements;
- controlling the production and importation of food products;
- reviewing/granting approvals for the registrations of specially controlled foods;
- reviewing/granting approvals for advertisements;
- reviewing/granting approvals for packaging materials;
- inspecting food manufacturing premises and sellers;
- conducting sampling and quality assessments of food products;
- taking legal actions, e.g. seizure, product recalls, prosecution;
- conducting epidemiological studies;

- promoting consumer awareness and voluntary compliance of HACCP by food manufacturers;
- controlling food-producing plants so that they meet national mandatory requirements by using GMP;
- collaborating with other government agencies, the private sector as well as international organisations in the matters related to technical corporation;
- assembling, disseminating and exchanging information related to food; and issuing certifications, e.g., certificates of free sale

The Food Act (1979) regulates various activities on food manufacturing, importing and retailing including:

- Establishment of food standards, and hygiene and labelling requirements.
- Control of the manufacture or import of food.
- Declaration of controlled foodstuffs and their registration.
- Advertising of food.
- Packaging materials for food.

Under the Food Act, licenses are required for manufacturing or importing of food products. All food products are subject to analysis. A food product that is listed as a controlled food under the Act, whether imported or manufactured, is subject to registration. The Act enables officials to inspect food factories and premises, and to take samples for analysis.

Under the scope of Industrial Product Standards Act B.E.2511 (1968), the Thai Industrial Standards Institute (TISI) develops both mandatory and voluntary Thai Industrial Standards (TISs) to suit the needs of growing industry, trade and economy of the country. Standards are developed based on the government policy on consumer protection, industrial promotion to be competitive in the world market, environmental protection and natural resources conservation. The national standards require that:

- All products, which are mandated by the Royal Decree, are to conform to the standards (Mandatory Standards).
- All imported products, which are mandated by the Royal Decree, are to conform to the standards (Mandatory Standards).
- All manufacturers should conform to the product standards, which have already been determined, and should carry the Standard Mark of TISI on the product.

TISI ensures conformity assessment regime by implementing product certification system by testing products to ensure conformity with the applicable standards, and assessing the factories' quality control system according to specified conditions as well as carrying out surveillance at least twice a year.

TISI also takes part in the work of the FAO/WHO Food Standards Programme representing Thailand under the FAO/WHO Food Standards Programme (CODEX),¹⁹ The Food Safety Programme by the Ministry of Public Health is also implemented based on the aspired food

¹⁹ Extracted from <http://www.greenassembly.net/thailand/thai-industrial-standards-institute/>

safety policy by the Thai Government that is "*Safe and Clean Food for All*". This programme has been judiciously implemented, aiming at keeping the standard and quality of all foods produced and consumed in Thailand to meet the international food standards. According to the Country Report on "Food borne Diseases: Situation of Diarrheal Diseases in Thailand" published by FAO/WHO in 2004, five strategies are being implemented for food safety in Thailand in order to accomplish the goals of the food safety policy:²⁰

- Strategy 1: Laws and regulations related to food control to be in compliance with international standards, and their enforcement to provide for equity in consumer protection on all food products produced locally, imported, and for export.
- Strategy 2: Food Safety Monitoring System to be strengthened, whereby the Ministry of Public Health implements measures for a strict and regular surveillance, and monitors chemical and microbial contaminants, including toxins in food. This strategy includes inspections of all production sites, distribution sites, and restaurants in accordance with good manufacturing practice (GMP) or Hazard Analysis and Critical Control Point (HACCP), hygiene, and food sanitary system.
- Strategy 3: Consumer power to be developed and enhanced by providing public education through the media (e.g., television, radio, leaflets, pamphlets, newspapers, etc.) in order to enhance their knowledge on how to select and buy safe food and to increase a consumer awareness on food consumption.
- Strategy 4: Responsible Personnel and Working Processes to be developed to include training and education programmes related to food safety for personnel in the responsible organisations. This also includes the information system linkage and cooperation between related organisations to ensure harmonised and synchronised working processes.
- Strategy 5: Laboratory Capability for analysis to be developed and supported with necessary equipment and facilities in laboratories and food testing mobile units.

The Cosmetic Control Division under the FDA ensures that the cosmetic products marketed in Thailand are safe and effective for use as claimed. Keeping in view of the incidence of number of cases impacting the public health and to invoke the Ministry of Public Health's concern under the consumer protection policy, the Cosmetic Act 1974 (B.E. 2517) was promulgated to safeguard health and benefit of consumers. The Act had been further revised as the Cosmetics Act 1992 (B.E. 2535). The Act defines cosmetic products into 2 categories namely "specially controlled" and "controlled" products. Those cosmetic products that fall outside this scope are regarded as general cosmetics.

"Specially controlled" cosmetics are defined as those containing specially controlled ingredients as part of the products or those products designated by the ministerial notification

²⁰ <http://www.fao.org/docrep/meeting/006/ad703e/ad703e00.HTM>

as specially-controlled cosmetics. These products are required to be registered and pay an annual fee as stated in the ministerial regulation to the Thai FDA prior to market release.

Similarly, “Controlled” cosmetics are defined as those using controlled ingredients as part of the products or those products determined by the ministerial notification as controlled cosmetics. These products also must be notified and an annual fee to be paid according to the ministerial regulation prior to market release. All the cosmetic products, nonetheless, must not contain those prohibited ingredients laid down by the ministerial regulations.

A quality assurance programme is undertaken through cooperation with the Cosmetics and Toxicology Division of the Medical Science Department. The cosmetic products from the markets and from manufacturing sites are regularly sampled and tested. Recommendations and actions are taken against those who are not in compliance with the regulations. Good Manufacturing Practice (GMP) implementation in cosmetic industry is one of Thai FDA policy in improving the production of manufacturers. The cosmetic GMP guideline is established by the GMP subcommittee and used as the reference by the FDA inspectors. Inspection and monitoring on labelling and advertisements are also regularly conducted.

Labelling of the products in all categories must carry information as specified in the Labelling Notification. The labels and advertising must not pose any exaggerated or misbranded or misleading claims.

Provisions on Labelling of products are also stated in the Consumer Protection Act of 1979 Part 2 (Sections 30-33). Section 30 states that goods which are manufactured for sale by the factories under the law on factories and goods which are ordered or imported for sale in the country should be labelled as “controlled goods”. Further Section 31 of the Act prescribes that controlled goods shall be labelled accordingly with truthful statements and contains name or trademark of the manufacturer or the importer for sale, the place of manufacturing or business operation, nature of the goods, and other information such as price, quantity, usage, recommendation, caution and an expiry date. Section 32 prescribes that disclose of confidential matters related to the production under Section 30 may not be necessary unless it has effects on health, hygiene and safety of the consumers. Section 33 prescribes that when the Committee on Labels is of the opinion that any label does not conform to section 31, the Committee has the power to order the businessman to cease using such label or to rectify such label.

The Unsafe Product Liability Act was passed on 20 February 2008 and came into operation on 23 February 2009. It imposes liability for unsafe products on manufacturers, sellers, importers, and others in the distribution chain. The Act defines products as: all kinds of products manufactured or imported for sale, including agricultural products and electricity, but excluding products exempted in regulations. Agricultural products means products from agriculture, including rice farming, fruit and vegetable farming, livestock farming, silk farming, lac (resin) farming and mushroom farming, but excluding natural products.

A person, who suffers damage or loss from an unsafe product, may bring a claim under the Act. Loss or damage means loss or damage caused by using an unsafe product, whether to life, body, health, mind, or property, but excluding loss or damage to the unsafe product itself.

Mental loss means pain, suffering, fear, anxiety, depression, humiliation, or any other mental loss with the same affect.

According to the Act, an unsafe product is one that causes or may cause injury, whether from a manufacturing defect, its design, lack of instructions, storage, warnings, or information concerning the product, or inadequate or unclear information. These all are in relation to the state of the product, including usage and storage under normal conditions of that product in normal circumstances.

A business operator liable for the duties imposed under the Act, means:

- A manufacturer or a contractor
- An importer
- A seller of the product who is unable to identify the manufacturer, the contractor or importer.
- A person who uses a trade name, trademark, mark, articles or any means to make others believe that he is a manufacturer, contractor or importer.

All business operators are liable for loss or damage caused from an unsafe product, where the product has already been sold to consumers, regardless of whether the loss or damage was caused intentionally or negligently.

For a business operator to be liable, an injured person must prove that he/she suffered loss or damage from the product. Also the injured person must prove that he/she had followed the correct instructions for use or storage in normal circumstances, but there is no need to prove which business operator caused the loss or damage. A business operator is not liable for loss or damage caused by an unsafe product, if he can prove that:

- the product is not an unsafe product
- the injured person already knew that it was an unsafe product
- the loss or damage was caused by incorrect usage, or storage, or failure to follow any warning, or ignoring information concerning the product which a business operator had indicated clearly and correctly

According to the Product Liability Act, a person who manufactures products under the orders of a contractor is not liable for loss or damage, if he can prove that the unsafe nature of the product was caused by the design of the contractor, or by following instructions from the contractor, since a manufacturer should not have to expect or foresee the unsafe nature of that product.

Further, the Act prescribes that:

“The manufacturers of a product’s parts are not liable, if they can prove that the unsafe nature of the product was caused by the design, assembly or instructions for use of the product, storage, or warning or information regarding the product. An agreement between a consumer and a business operator made in advance before the loss or damage has occurred, or a notice of the business operator exempting or limiting liability for loss or damage caused by an unsafe product, cannot be used to exclude or limit liability.”

“Consumer” here means a person who buys or obtains services from a business operator or a person who has been offered or invited by a business operator to purchase goods or obtain

services, and includes a person who uses goods or obtains services from a business operator, even though he or she does not pay remuneration for it/them.

The OCPB, or an association or foundation certified by it, has power to make claims on behalf of an injured person. In such cases, no court fees will be charged except for court fees at the highest level. Note that an injured person still has a right to bring a claim by himself. As well as assessing damages in accordance with the Civil and Commercial Code.

If it appears that the business operator manufactured, imported, or sold the product, knowing that it was unsafe, or without knowledge due to his negligence, or knew that the product was unsafe after manufacturing, import or sale but failed to act appropriately to prevent loss or damage occurring, the court may order the business operator to pay compensation up to twice the actual amount. The right to claim compensation expires after three years from the date that the injured person learned of the unsafe nature of the product and knew the identity of the business operator liable for loss or damage, or ten years after the date of sale of the product.

Where there is loss or damage to body or health caused by matter accumulated in the body of an injured person, or where there is a need to wait to see the symptoms, the injured person or his representative must claim within three years from the date of acknowledgment of the loss or damage, and knowledge of the business operator liable for the loss or damage, but not more than ten years from the date of acknowledgment of the loss or damage.

If there are negotiations concerning damages between a business operator and an injured person, the period of limitation applicable is suspended during negotiations, until either party terminates them. The provisions of the Product Liability Act do not limit the rights of an injured person to seek compensation under any other law.

3.1.2.1 Implementing Agencies

The Thai Food and Drug Administration (FDA) under Ministry of Public Health regulate food safety and food control in Thailand. The Food Control Division of the Thai FDA has the responsibilities for protecting consumer's health from hazardous and deteriorated foods. Its functions include pre-marketing approval and post-marketing activities, e.g. licensing for manufacturing and importation of food commodities and registration of specially controlled food. The purpose is to guarantee for good quality and safe food only to enter into markets. Apart from the FDA, Thai Industrial Standard Institute (TISI) under the Ministry of Industry and the OCPB also involve in implementing the relevant acts to protect consumers with regards to food safety and labelling. The scope of the products under TISI include electrical or electronic products, civil or construction material, consumer products, fluid products, food products, heat transfer products, medical or scientific products, paints, colour, varnishes, vehicle products, and others.

Other Acts related to food safety and the implementing authorities are summarised in Table 3.1. As indicated Ministry of Agriculture is the implementing authority for laws related to animal and fishery. In addition, the National Bureau of Agricultural Commodity and Food Standards (ACFS), under the Ministry of Agriculture and Co-operatives, is the primary agency to promote and certify standards of agriculture commodities and foods for domestic consumers and buyers abroad. As an agricultural standards body, ACFS ensures that the safety

of food and agricultural commodities and quality of food produced in Thailand are based on consumer preferences and International Standards. ACFS works in partnership with various Government Departments, local authorities, national, regional and international organisations.

The key functions of ACFS are:

- Standard setting for agricultural systems, commodity and food items, and food safety;
- Accreditation of certification bodies;
- Dialogue and negotiation with international trade partners on disputes concerning SPS/TBT issues;
- Monitoring and Surveillance of food standards;
- Promotion of standard compliance for farms and food establishments.
- Provide information on agricultural and food standards and also act as the focal point for WTO-SPS/TBT, Codex and the International Plant Protection Convention (IPPC).

Table 3.1: Food Safety Control Acts and Authorised Bodies in Thailand

Ministry	Legislation	Authorised Agency
Ministry of Public Health	Food Acts B.E. 2522 (1979)	Thai FDA
Ministry of Agriculture	Fisheries Act B.E 2490 (1947)	Department of Fisheries
	Animal Epidemic Act B.E. 2499 (1956) Feed Quality Control Act B.E.2525 (1982) Animals and animal Carcasses Act B.E 2544(2001)	Department of Livestock Development
	Plant Quarantine Act B.E. 2507(1964) Hazardous Substances Act B.E. 2535 (1992) Plant Varieties protection Act B.E. 2542(1999)	Department of Agriculture

3.1.3 Laws on Phone & Internet Services and E-Commerce

Thailand, as a developing economy, provides an example of how traditional monopoly markets for long-distance and international calls are becoming contestable due to technological developments such as cellular mobile and more recently Internet telephony. According to the Telegraph and Telephone Act of 1934, the government has a statutory monopoly in the ownership and operation of a public telecommunications network. Thus, the two State-owned carriers namely, the Communications Authority of Thailand (CAT) and the Telephone Organization of Thailand (TOT) are monopolies in the local and international call services respectively. During the rapid expansion of the Thai economy in the early 1990s, it became evident that TOT and CAT alone could not expand their services to meet the surge in demand. To circumvent legal restrictions, a number of build-transfer-operate (BTO) concessions were granted to private companies. These concessions allow the State agencies (as

concession providers) and the private companies (as investors of network construction and service providers) to share monopoly benefits by revenue or profit sharing schemes. These concessions have led to a limited competition in the telecommunications market. Currently, concessions have been granted to fixed-line telephone operators, mobile phone operators, Internet service providers, VSAT, and other value-added service providers.²¹

Thailand's Computer Crime Act B.E. 2550 (2007) took effect on July 19, 2007. However, the requirements of the Act only became universally effective to 'all service providers' on August 24, 2008. Before the enactment of the Act, Thai authorities did not have any specific legal tool to address issues such as hacking, disclosure of access passwords to a third party, eavesdropping on computer data, pornography and other "harmful" Internet content, or the liability of ISPs. Some of these offences could be prosecuted under Thailand's Penal Code, but the Computer Crime Act establishes more specific charges and, in some cases, heavier penalties. Importantly, the Act also gives the authorities the power to block or shut down websites they deem unlawful, a power, which they have never before been granted by law. Offences in the Act can be grouped into two categories: offences committed against computer systems or computer data (Sections 5-13), and content offences committed via a computer, which are already crimes in the Penal Code (Sections 14-17).

There are other sector-specific regulations that are aimed to provide market conditions, among other things, in favour of small players in order to allow them building up competitiveness. One such Act in regard of telecommunications is the Telecommunication Business Act of 2001. The Act was a significant shift of the telecommunication reform. It addressed essential issues of telecommunications industry including licensing, access and interconnection, standard of telecommunications network and equipment, rights of licensee, rights of user, contract for the supply of telecommunications service, fee and tariff in telecommunications service, regulatory enforcement, and especially transitory provision. The major reform of the Act is matters of licensing and interconnection, which dramatically changed the business factors of industry.

- **Licensing:** The Act introduced a pro-competitive licensing system that classifies licenses into three types (1) Service Providers; (2) Private Network Providers; and (3) Public Network Providers.
- **Access and Interconnection:** The Act defines a general framework of access and interconnection that it is the duty of every operator who own telecommunication network to allow others to access or interconnect to its own networks or services.

For the Electronic Transactions, there is a specific law i.e. Electronics Transaction Act of 2001 and its revision (2nd version) 2008. This legislation is considered to be a stepping stone for Thailand in entering into the cyberspace era. This is the first Thai sui generis law that regulates a business transaction conducted electronically. The main features of this law can be summarized as follows:

²¹ Abstract of the Article that appeared in ITU News in November 2000.

- This Act is applicable to all civil and commercial transactions conducted by using an electronic data or information;
- The heart and soul of the law appears in Section 7 prescribing that “Information shall not be denied legal effect and enforceability solely on the ground that it is in the form of a data message”;
- The recognition of an electronic signature is reflected in Section 9. The electronic signature is likely to be enforceable if the said signature is capable of identifying the signatory and indicating that the signatory has approved the information contained as being his own and if the said signature is reliable;
- The electronic data or information shall be admissible in a court as evidence. In any circumstance, it is a discretion of the Court in considering the evidential weight of the said data or information whether it is reliable;
- An acceptance and offer in entering into a contract can be done by an electronic mean.

Thailand has amended its Electronic Transaction Act to further strengthen and promote e-commerce transactions in the country. The amended Act, was published in the Government Gazette on 13 February 2008, and took effect on 14 February 2008.

Section 8 of the Amended Act provides that if any instrument is required by law to be affixed with stamp duties, if it is paid or otherwise processed by electronic methods in accordance with the rules and methods stipulated by the related government agencies, it shall be deemed that such instrument is affixed with stamp duties.

Under the Amended Act, "person" and "digital signatures" now includes juristic persons and digital corporate seals. The Amended Act further refines subsection (2) of Section 9 above by defining what are considered reliable methods, the methods or devices in identifying a person, nature and types of transactions, and security of the communication system.

Section 10 as amended now stipulates that if the published electronic data is completely identical to the electronic data and certified by the relevant authorized agency, such published item can be used as the original electronic data.

The Amended Act particularly identifies legal proceedings as "civil, criminal and any other cases." In assessing the evidential weight of electronic data to determine whether it is reliable or not, the manner in which or the method by which the electronic data was generated, stored or communicated, the manner in which or the method by which the completeness and integrity of the information was maintained and the manner in which or the method by which the originator was identified or indicated, including all relevant circumstances are to be considered.

These amendments strengthen the enforceability of electronic data in order to facilitate and stimulate E-commerce business transactions in Thailand. Thailand expects that these amendments, combined with the promulgation of other e-transaction laws such as the Data Protection Act and the Computer Crime Act, will encourage consumer confidence and broaden the consumer base of Thai entrepreneurs.

3.1.3.1 Implementing Agencies

The telecommunications sector in Thailand is regulated by the National Telecommunication Commission (NTC).

3.1.4 Laws on Consumer Credit and Banking

Economic crimes used to cause a lot of problems to law enforcement in Thailand and one of the illegal activities of this type are money laundering. The Bank of Thailand has classified money laundering into several characteristics and the government of Thailand had taken an initiative to enact the Money Laundering Control Act (1999). The Act consists of 7 chapters and 66 sections with having a Money Laundering Control Board consisting of following members:

- Prime Minister as Chairman
- Minister of Finance as Vice-Chairman
- Permanent Secretary of Ministry of Justice
- Attorney-General
- Commissioner General of the Royal Thai Police
- Secretary General of Narcotic Control Board
- Governor of the Bank of Thailand
- Other nine members with expertise in economics, monetary matters, finance or law appointed by the cabinet etc.

Under the Act, the Anti-Money Laundering Office was established and is subordinate to the Office of the Prime Minister and has the following powers and duties:

- To carry out resolutions of the Money Laundering Control Board and Business Transaction Committee
- To receive, collect and examine information on financial transactions
- To share information with the Court and other competent authorities for the purpose of investigating and prosecuting offenders
- To develop training programmes for concerned government and private sectors.

Within the organised financial markets, commercial banking is the most important institution in the Thai economy. The Bank of Thailand was established in 1942 to act as the country's central bank. Its function is to issue notes, act as banker to the government and other banks, act as fiscal agent of the government in its dealing with international monetary organisations, manage public debt, maintain exchange controls, supervise commercial banks and manage public credit fonciers.

Under the Commercial Banking Act of 1962 and its revision of 1979, the Bank of Thailand is entrusted with supervising the commercial banks. It has the power to prescribe the cash reserve ratio, the maximum rates for loans and deposits to be charged on consumers and the ratio of capital funds to risk assets. The Bank also acts as a lender of last resort for commercial banks. The Bank of Thailand aims to provide a stable financial environment for sustainable economic growth in order to achieve continuous improvement in the standard of living of the people of Thailand.

According to the Commercial Banking Act, the commercial banks normally provide credit and to further improve the role of commercial banks, the Act stipulated requirements for reducing the banks involvement in non-banking activities, encouraging lending to selected sectors and promotion a better relationship between the banks and consumers.

Credit Information Business Act B.E. 2545 (2002) is a specific law on the Credit Bureau under the responsibility of Credit Information Protection. Under the Act, the National Credit Bureau Co., Ltd operates credit information business based on fairness and respect for the consumers' privacy rights and their rights to be considered for credits, while providing essential credit information for the benefits of the Thai financial system.

In Thailand, the Finance companies and credit foncier companies are governed by the Act on the Undertaking of Finance Business, Securities Business, and Credit Foncier Business B.E. 2522 (1979). Further amendment to the Act in 1992 removed securities business from the control of the 1979 Act. They are now governed by the Securities and Exchange Act B.E. 2535 (1992) and are under the supervision of the Securities and Exchange Commission.

However, the National Legislative Assembly has approved the Financial Institution Business Act that came into force on August 3, 2008. The new Act superseded the Commercial Banking Act B.E. 2505 (1962) and the Act on the Undertaking of Finance Business, Securities Business, and Credit Foncier Business B.E. 2522 (1979).

In addition to above all, to further enhance consumer protection in Thailand, the Thai Cabinet has recently approved a Credit Card Business Bill and Debt Collection Bill.

The Credit Card Business Bill is aimed at curbing abuses by credit card business operators and increasing consumer protection. The escalating debt problems and increasing number of consumer complaints over exorbitant interest rates prompted the Ministries of Finance and Justice to develop a law with the intention of standardising the rules governing credit card businesses run by banks and non-bank institutions. Some of the Bill's main provisions are highlighted below:

- Credit card business operators need to obtain a license from the Ministry of Finance with recommendation from the Bank of Thailand (BOT)
- The BOT establishes a uniform set of rules governing, inter alia, interest rates, penalty rates and fees
- The rights and duties of operators, card holders and vendors will be clearly defined
- Operators may not collect payment before the due date under the credit card contract
- In case of overpayment, the credit card holder will be entitled to request the operator to return the excess amount
- If a card holder disputes an Internet purchase in writing, the operator will be obliged to suspend payment and investigate the matter
- Claims for payment will only be enforceable for two years following termination of the contract

The Debt Collection Bill will protect debtors from being intimidated by collectors using unfair means to collect money. The bill requires all debt collectors to register with the Finance

Ministry or face fines of 100,000 baht and one year in prison. Under the Bill, the debt collectors are defined as financial institutions, non-bank institutions and debt collection companies. The Finance Ministry proposed the bill as part of the government's broader program to help consumers restructure or clear debts. Some of the interesting features of the Bill are:

Debt collection is only allowed from 8 am to 8 pm on weekdays and 8 am to 6 pm on weekends, or at an agreed-upon time between parties. Collectors are mandated to ask about debt information from debtors only. If they want to know the addresses of debtors, collectors can seek the information from others but cannot expose themselves as debt collectors. If a debtor is humiliated by the debt collection, the collector may first be warned and in serious cases, face revocation of his operating license.

The Bill, to date, is pending scrutiny by the Council of State, the opinion of the Customer Protection Board and Ministry of Commerce and approval by the Parliament before coming into force. This Bill gives credit card users a hope for better protection in the future. Once the Bill gets into implementation with fulfilling all other formalities, a complaint committee will be set-up by the finance permanent secretary.

3.1.4.1 Implementing Agencies

The Ministry of Finance plays the main role in implementing laws related to consumer credit and banking in the country and handle specific areas as discussed in the above Section. The Bank of Thailand is entrusted with supervising the commercial banks.

3.1.5 Laws on Environmental Quality and Services

The Constitution of 2007 clearly provides the public right to participate in the prevention and elimination of any actions that is to deteriorate natural resources and to pollute the environment. Some of the sections that relate to consumers in general are:

- *Section 57: A person shall have the right to receive data, explanations and reasons from a Government agency, a State agency, a State enterprise or a local government organisation prior to the approval or the operation of any project or activity which may affect the quality of the environment, health and sanitary conditions, the quality of life or any other material interest concerning such person or a local community and shall have the right to express his or her opinions to agencies concerned, for assisting further consideration of such matters. In planning social, economic, political and cultural development, or in undertaking expropriation, town and country planning, zoning and making by-laws likely to have impacts on essential interests of the public, the State shall cause to be held comprehensive public hearings prior thereto.*
- *Section 66: Persons so assembling as to be a community, a local community or a traditional community shall have the right to conserve or restore their customs, local knowledge, good arts and culture of their community and of the nation and participate in the management, maintenance, preservation and exploitation of natural resources, the environment and the biological diversity in a balanced and sustainable fashion*
- *Section 67: The right of a person to give to the State and communities participation in the conservation, preservation and exploitation of natural resources and biological diversities and in the protection, promotion and preservation of the quality of the environment for regular and continued livelihood in the environment which is not hazardous to his or her health and sanitary condition, welfare or quality of life, shall be protected as appropriate. Any project or activity which may seriously affect the community with respect to the quality of the environment, natural resources and health shall not be permitted, unless, prior to the operation thereof, its impacts on the quality of the environment and on public health have been studied and assessed and a public hearing process has been conducted for consulting the public as well as interested persons and there have been obtained opinions of an independent organisation, consisting of representatives from private organisations in the field of the environment and health and from higher education institutions providing studies in the field of the environment, natural resources or health.*
- *The right of a community to bring a lawsuit against a Government agency, a State agency, a State enterprise, a local government organisation or other State authority which is a juristic person for the performance of duties under this provision shall be protected.*
- *Section 73 Every person shall have a duty to serve in armed forces, render assistance in the prevention and alleviation of public hazards, pay taxes and duties, render assistance to the official service, receive education and training, safeguard, protect and pass on national arts, culture and local knowledge and conserve natural resources and the environment, as provided by law.*
- *Section 85 The State shall pursue directive principles of State policies in relation to land, natural resources and the environment, as follows:*
 - *to prescribe rules on land use which cover areas throughout the country, having regard to the consistency with natural surroundings, whether land areas, water surfaces, ways of life of local residents, and the efficient preservation of natural resources, and prescribe standards for*

sustainable land use, provided that residents in areas affected by such rules on land use shall also have due participation in the decision-making;

- *to distribute land holding in a fair manner, enable farmers to have ownership or rights in land for farming purposes thoroughly through land reform or otherwise, and provide water resources for sufficient use of water by farmers in a manner suitable for farming;*
 - *to provide town and country planning and carry out the development and action in the implementation of town and country plans in an efficient and effective manner in the interest of sustainable preservation of natural resources;*
 - *to provide a plan for managing water resources and other natural resources systematically and in a manner generating public interests, provided that the public shall have due participation in the preservation, maintenance and exploitation of natural resources and biological diversity in a balanced fashion;*
 - *to promote, maintain and protect the quality of natural resources in accordance with the sustainable development principle, control and eradicate polluted conditions affecting health, sanitary conditions, welfare and the quality of life of the public, provided that members of the public, local residents and local government organisations shall have due participation in determining the direction of such work.*
- *Section 290 A local government organisation has powers and duties in connection with the promotion and maintenance of the quality of the environment as provided by law. The law under paragraph one shall at least contain the following matters as its substance:*
 - i) the management, preservation and exploitation of the natural resources and environment in the area of the locality;*
 - ii) the participation in the preservation of natural resources and environment outside the area of the locality only in the case where the livelihood of the inhabitants in the area may be affected;*
 - iii) the participation in considering the initiation of any project or activity outside the area of the locality which may affect the quality of the environment, health or sanitary conditions of the inhabitant in the area;*
 - iv) the participation by local communities*

Other Sections e.g. Section 86 (3) to promote and lend support to research and development and make use of alternative energy that is naturally acquired and advantageous to the environment in a continued and systematic manner.

The National Environmental Quality Act B.E. 2535 (1992) outlines the role and responsibility of PCD as to include:

- pollution Control Areas formulation
- establishment of pollution control standards from sources
- categorisation of pollution control source as controlled emissions, effluence or waste disposal, to set up the Pollution Control Committee to formulate policy
- plan, coordinate remediation of pollution problems
- to prescribe the possible pollution prevention measures chaired by the Permanent Secretary of Ministry of Science, Technology and Environment (MOSTE)

The diversified role of PCD also includes stipulating the criteria, methods and conditions of pollution management, assigning the duty of Pollution Control Officer, establishing Fees and Fine and Civil Liability and the Penal Provisions in case of violation or refusing to comply.

Under the MOSTE several Ministerial Notification, Ministerial Regulation and National Environmental Board (NEB) Notification were passed such as Motor vehicle Noise Emission Standards, Black Smoke and Carbon Monoxide (CO) Emission from Motor Vehicle Standards, Hydrocarbon Emission from Motorcycle Standards, standards to control the effluence from some types and some sizes of buildings, Notifications to categorize type of buildings as pollution sources to be controlled the waste water discharge to public water resources and environment and to designate the Pollution Control Areas, Coastal Water Quality Standard and Surface Water Quality Standard.

According to Section 8 in the Factories Act B.E. 2535 (1992), Pollution Control Department (PCD) has the authority to establish standards and criteria to control the factory operations. Especially the standards and methods to control the disposal of waste, pollution or any contaminants caused from factory operation that impacts the environment. Under the Act, Ministry of Industry can also publish the Ministerial Regulation about the disposal of solid waste, night soil and garbage, to forbid wastewater discharge and emission from factories, and the guideline for having treatment facility, and also to establish noise level not exceed the EPA standard.

Pursuant to the Public Health Act B.E. 2535 (1992), PCD involves in the part of waste disposal both to control the waste and garbage transporters/disposers. It also establishes criteria to control public nuisance cause as means odour, light, radiation, sound, heat, hazardous substances, vibration, dust, poisonous tar/ash not to impact human and environment. PCD oversees business that is danger to health, markets, food storage to provide solid waste collection/disposal sites, wastewater discharge and air emission.

The Hazardous Substances Act B.E. 2535 (1992) describes hazardous substance control criteria for import, production, transportation, consumption, disposal and export not to influence and danger to human, animals, plants, properties or environment. Ministry of Industry (MOI) categorises the hazardous substances into 4 types for use to control correctly and appropriately and formulates Hazardous Substances Information Centre to coordinate with other government agencies in part of hazardous substances information and stipulation of the criteria and methods to register hazardous substances.

In line with the energy development strategies defined in the Seventh National Economic and Social Development Plan (1992-1996), the Energy Conservation Promotion Act was passed by the government in 1992, with the main objectives of promoting energy conservation and renewable energy. These fundamental concepts have finally been translated into actual programmes and projects under the Energy Conservation Program (ENCON Program) overseen by the National Energy Policy Office (NEPO). The main objectives of the ENCON Program include:

- providing financial assistance and incentives for energy conservation, energy efficiency and renewable energy projects;
- supporting demonstration of energy conservation and renewable energy technologies;

- supporting the promotion and dissemination of proven energy conservation and renewable energy technologies;
- increasing research and development and training in energy conservation technology; and organising public awareness campaigns to promote energy conservation

3.1.5.1 Implementing Agencies

The Ministry of Science, Technology and Environment (MOSTE) is generally in charge and handle specific areas on environmental quality and services as discussed in the above Section.

3.1.6 Laws on Health and Healthcare Services

Health policy and strategy are key elements of the government for implementing activities aimed at making the people healthy involving all concerned, using the call for health approach. So a good understanding of health policy and strategy is essential as they will positively and negatively affect the health and well being of all Thai people. As outlined in Thailand Health Profile by Dr. Supakit Sirilak from Director, Bureau of Policy and Strategy, the Thailand Health Policy identifies the evolution of health policy, strategy, and population health outcomes. According to his remarks Thailand has invested in health for more than five decades. Primary Health Care has been implemented in Thailand since the Alma-Ata Declaration, which broadened the medical model of health to include social and economic dimensions, and acknowledged that achieving better health involved multi-sectional activities. Further he stated that Thailand has moved towards the universal health care coverage policy targeted at providing access for the poor to essential and referral care. It is hoped that this document will contribute to sharing experience in investing in health in Thailand.

The Rights to Health of the Thailand is generally expressed in the 1997, which guarantees rights and freedom of the people to physical, mental and social health. The constitution specifies people's rights related to health in six aspects as follows:

- Right to know about the impact on human health, environment and quality of life (Section 59).
- Right to express opinions about the impact on health, environment and quality of life (Section 59).
- Right to take part in decision-making, to benefit from, to protect/promote natural resources and the environment that will have an impact on human health and quality of life (Section 56).
- Right for at least 50,000 eligible voters to collectively sign a proposition to legislate a law on health, according to the fundamental state policy, to the parliament for consideration (Section 170).
- Right to receive health care in an equal, universal, and equitable manner (Sections 52 and 86).
- Right to join in examining for health consumer protection purposes through an independent agency called Consumer Protection Organization (Section 57).

The National Health Act of 2007 provides a vivid image of the core and essential structures of the health system in Thailand. Health is stated as the ultimate goal of development and the dignity and basic human rights of all people, and has been redefined as “a state of well-being in four aspects: physical, mental, social, and spiritual”. The rights and responsibilities of

individuals, the community, local government, and central government in promoting and protecting health are well established. All determinants of health equality and security have been defined in categories such as food security, economic security, social security, political security, and health care security. The Act also aims to invite or mobilize all stakeholders to collaborate with each other in redesigning a new mind set for the Thai health system.²²

The Statute on National Health System 2009, which was issued under the National Health Act 2007 and in line with the Constitution of the Kingdom of Thailand 2007, serves as a framework and guideline on health-related policies and strategies for state agencies and public communities. It also helps to shape the policies and plans in the corresponding direction.

Following 12 issues are stated as a framework in the Statute:

- Philosophy and main ideas on the health system
- Desirable characteristics and objectives of the health system
- Health security and protection
- Health promotion
- Disease prevention and control, and determinants of adverse health
- Health service and quality control
- Promotion and development of local wisdom on healthcare, Thai traditional medicine and alternative medicine
- Consumer protection
- Creation and dissemination the health-related knowledge
- Dissemination of health-related information
- Production and development of health professionals
- Health financing

In addition, ‘the Health Impact Assessment Guideline 2009’, was issued by the National Health Commission according to the National Health Act 2007. It serves as a key instrument for ensuring that the comprehensive health impact is taken into account when it comes to the healthy public policy development at local and national levels.

As per the Drugs Act (2003), the Drug Control Division under the Thai FDA has set a vision as an institute with reliability and good reputation in consumer protection. The public is thus assured of accessibility to safe and efficacious marketed pharmaceutical products of standard quality, to reliable and adequate information, and to advance technology. The Division promotes the production capacity of local pharmaceutical industries to the extent that they are able to export medicines of standard quality. The Division carries out its mission in consultation or cooperation with experts in science, medicine, pharmacy and public health, consumers, manufacturers, importers, distributors and retailers of drugs. It works closely with several other organisations (e.g. universities, industries, hospitals, health-care professional groups, consumer groups, other relevant agencies and foreign governments) in the drug development and review processes. Some of the features of the Drug Act include:

²² Summary from the World Health Organization (2003). Development of Health Impact Assessment in Thailand: Recent Experiences and Challenges. Bulletin Vol.81 (6) Geneva.

- Types of medicines are classified into 3 new categories: prescription-only, pharmacy-dispensing and household remedies.
- Physicians are no longer allowed to compound medicines for their patients.
- Manufacturers who are unable to comply with the good manufacturing practices (GMP) principles can no longer proceed with the drug business.
- The new law provides more flexibility for revising the GMP requirements. Under the new law, the GMP requirements may be revised and approved by the Drug Committee and declared by the Minister of Public Health; no need to get approval from the Parliament as required in the 1987 law.
- Government-owned enterprises or agencies are no longer being exempted from the requirements of licensing and product registration.
- Pharmaceutical products may be registered in either of the two channels: one for general medicines and the other for Thai traditional medicines.
- Product licenses must be renewed every five years.
- The Drug Committee is authorised to withdraw any drug products if later evidence proves that the products are not scientifically efficacious.

The Food and Drug Administration can declare certain charges for its services related to licensing, registration, dossier evaluation and approval processes, including expenses for testing the products.

Product liability is implemented for the first time, whereby consumers may directly sue and get compensation from drug manufacturers if there is any serious harm occurring to them after consumption, provided that product indications are strictly followed.

The deviation of statements in advertisement from those permitted is also to be made known to the public through further apology advertisement along with the correct statements. The amounts of fines are increased up to tenfold, compared to the previous ones. In addition, a pharmacist is no longer allowed to work in as many drugstores.

According to the Drug Act, the Drug Committee is appointed by the Minister of Public Health every two years to advise him/her on both regulatory and technical aspects concerning the administration of pharmaceutical control. The committee is also authorised to approve or withdraw pharmaceutical registration, standard specifications, criteria and guidelines, including suspending or withdrawal of licenses to manufacture, import, distribute or sell.

Narcotics Act 1979 has been revised many times in order to address changing situations to solve the practical problems of narcotics related violence which occur from time to time. The present version is the Fifth Amendment, which became effective on October 1, 2002. It includes a provision for rehabilitation of narcotics addicts, including treatment. It also widens the circumstances in which the Court has the power to delay the determination of the sentence and/or to suspend the sentence. Further, it implements measures enabling government officials to request permission to produce, import, export, dispose of, or possess narcotics for the protection and control of any wrongful act relating to narcotics.

The fifth amendment of the Act also increases measures in narcotics prevention and suppression by entrusting relevant competent officials with the power to make a search

without a search warrant and to order a person or group of people to be tested as to whether they have consumed narcotics substances. There is now a greater opportunity for consumers and sellers of narcotics in low quantities to submit to voluntary treatment.

Importantly, those who are in possession of narcotics, including possession for sale, or those who have consumed narcotics of a particular category and quantity prescribed in Ministerial Regulations may voluntarily yield themselves to be treated at a clinic before the offences are reported to administrative officials or police officers, and provided the treatment conforms to the regulations governing treatment control and the clinic has been issued with a letter of certification, they will be absolved from liability for the offences. .

It is also worth noting that narcotics offences are also “predicate offences” under Thailand’s anti-money laundering legislation and that the Anti-Money Laundering Office does seize assets of offenders of Thailand’s narcotics law.

After establishing the National Committee Tobacco Control in 1989 and Institute of Tobacco Consumption Control under Department of Medical Services in 1990, the tobacco control in Thailand has been controlled in an organised manner and conscientious efforts. In 1992, the Parliament passed two laws related to tobacco:

- i. Non-Smoker Right’ Protect Act
- ii. Control Tobacco Product Control Act

There are different sections relevant to bans on advertising and promotion of Tobacco under the Control Tobacco Product Control Act. In addition, Thailand has set up the National Plan and Polices for Tobacco Control.

3.1.6.1 Implementing Agencies

The Ministry of Public Health is the key agency in charge and handle specific areas on health and healthcare services as discussed in the above Section. The FDA is the key agency in implementing food and medicines related laws.

3.1.7 Laws on Professional Services

This study covers services that are specifically related to medical and legal professions. There are specific laws classified by the professional type, e.g. Lawyer’s Act of 1985 and the Medical Profession Act 1982 and the Medical Registration Act 1999 etc.

Under the Lawyers Council Act 1985 the control of practicing lawyers lies with the Lawyers Council of Thailand. It is responsible for registering attorneys, issuing licenses, instituting disciplinary action and promulgating codes of conduct.

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

The Nursing and Midwifery Professional Act B.E. 2528 and the Amendment No. 2 in B.E. 2540, is enforced by the independent Thailand Nursing Council. All of nursing graduates from nursing schools both public and private accredited by Nursing Council has to take the licensing examination, which conducted, in Thai language. The license is valid for 5 years. Foreign nurses who graduated from schools/universities approved by the Civil Services Commission of Thailand and Nursing Council, have permanent residence in Thailand may apply for the licensing examination to practice in Thailand.

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

3.3.7.3 Implementing Agencies

The Ministry of Public Health is the key agency in charge and handle specific areas related to Medical Professional services and the Ministry of Justice is the key agency in charge and handle specific areas related to Legal Professional services as discussed in the above Section.

3.1.8 Other Laws Protecting Rights of Consumers

The Consumer Case Procedure Act of 2008 has been enforced since August 24, 2008. This Act has provisions adding consumer rights to be more protected, including filing a “consumer case” in the Court of Justice, which performs as a “Consumer Court”. The procedure of the case according to this Act benefits the consumers in many aspects i.e. more convenient, more economical and speedier, for instance, exemption from all cost of prosecution, shorter period for the case consideration, burden of proof which is liable to the business operator, details of evidence investigation which is more convenience, as well as the convenience in terms of the jurisdiction of the Court. Under this Act, the consumer can file the case at any Court having its jurisdiction while the business operator can file the case only at the Court where the consumer has domicile, etc. Some of the pro-consumer provisions are:

- Section 11 of the Act, which gives rise to a cause of action in the case where a seller makes a promise to a consumer but fails to deliver, would most likely lead to a rapid upsurge in lawsuits against business operators. It specifically states that where a business operator, through notice, advertisement, warranty, or any other actions, leads the consumer to understand that the business operator agrees to provide certain things to the consumer in addition to those concluded in the contract, then such statements, actions, or promises made by the business operator will be deemed

as part of the contract concluded, even though such terms are not in writing. While the Consumer Case Procedure Act provides a new hope for injured consumers, companies on the other hand have to face considerable risks of liability which may frustrate the business or even put the entire operation in jeopardy. Potential costs for companies to defend consumer lawsuits alone could be substantial. Moreover, the court may award punitive damages in addition to the actual damages granted if the court finds that the business operator has deliberately taken advantage of or intentionally caused damage to consumers, or has committed gross negligence. Therefore, it is very important for companies to be more careful with the marketing and sale of their products, and to start considering ex ante measures to minimise the risks of liability and avoid unnecessary lawsuits.

- There is provision for the court to revise the damages awarded within 10 years. Punitive damages can be awarded if the breach is intentional or grossly negligent, in an amount up to twice the actual compensation. An appeal to the Court of Appeals is permitted on a point of law or on fact where the claim exceeds 200,000 Baht, and a further appeal to the Supreme Court may be made in limited circumstances.

The Child Protection Act 2003 was the main instrument reflecting the core principles of the Convention on the Rights of the Child (CRC) in the interest of children. The Act is a giant leap forward in the way children are protected from exploitation and abuse under Thai law. One of the most significant results of this Act has been the introduction of Child Protection Committees at the provincial level to develop locally relevant policies.

The Act Countering Market Dumping and Subsidy of Goods from Abroad B.E. 2542 (A.D. 1999) is intended to benefit domestic industry, consumers, and the public interest by acting as a countermeasure against market dumping and subsidised goods from abroad. It applies to all foreign manufacturers, exporters, and importers of listed goods and goods under consideration, governments of countries exporting goods under consideration, and trade associations consisting primarily of manufacturers.

The Committee Considering Market Dumping and Granting of Subsidy was first established in 1999 to consider imposing countermeasures under this Act, to approve agreements to eliminate market dumping and subsidisation, and to oversee and ensure compliance with this Act. Committee members hold office four years per term.

The Act Governing Prices of Goods and Services B.E. 2542 (A.D. 1999) applies to businesses, enterprises, and business activities in Thailand with the exception of central, provincial, and local agencies, and certain activities exempted by Ministerial Regulations. The Act replaces the previous Price Control and Anti-Monopoly Act, which did not sufficiently protect consumers and small businesses, especially during the ongoing privatization process in Thailand.

Parliament adopted the Act to protect consumers from price fixing and unfair service charges, and to ensure the supply of goods sufficient to meet domestic demand.

The Act establishes a Central Board Governing Prices of Goods and Services with the authority to prescribe goods and services to be controlled by the Act, fix the sale/purchase

prices of controlled goods and services, ensure that there is sufficient supply of goods or services to meet the domestic demand, consider complaints of distress or damage arising from unfair price practices, lay down regulations governing the payment of rewards and money, and prescribe bases, procedures, and conditions regarding the display of goods and services prices.

In order to assist the Central Board, the Act provides for the establishment of Provincial Boards Governing Prices of Goods and Services. The Act generally applies only to “controlled” goods or services to be announced from time to time, and covers all types of unfair pricing of products and services. As a result, it will not be enforced over goods or services unless the Central Board announces them as controlled goods or services.

The Product Liability Act came into force in February 2009, is designed to protect consumers who incur damage from defective or dangerous products, by imposing strict liability on business operators involved in the manufacture and/or sale of the product. It addresses manufacturing defects, design defects, and warning defects (or failure to warn). The Act imposes a strict liability standard.

The Weights and Measures Act came into effective since 18 October 1999 with a Central Bureau of Weights and Measures as a National organisation for legal metrology under the Department of Commercial Registration (DCR), Ministry of Commerce. The Central Bureau of weights and Measures of Thailand have the responsibility for all legal metrology activities, and acts under the direction of the Department of Commercial Registration (DCR). The Central Bureau of Weights and Measures is authorized to issue and deliver licenses to manufacturers, importers, repairers and sellers of weighing and measuring instruments prescribed or permitted to be used in connection with the system established by the Weights and Measures Law. The functions of the Central Bureau of weights and Measures include the registration, verification, inspection and general control of licenses, and of the weighing and measuring instruments used in Thailand, in conformity with the requirements of the Law or Ministerial Regulations.

Thailand has had insurance companies for over half a century and the industry is regarded as competent and well regulated. The insurance industry was supervised and regulated by the Ministry of Commerce through the Casualty Insurance Act B.E. 2535 (1992) and Life Insurance Act B.E. 2535 (1992) until the recent amendments imposed by the Casualty Insurance Act (No. 2) B.E. 2551 (2008) and Life Insurance Act (No. 2) B.E. 2551 (2008), which transferred the supervisory and regulatory role of the Ministry of Commerce to the Ministry of Finance. These Acts permit foreign life and loss insurance companies to operate branch offices in Thailand subject to certain conditions. Compulsory insurance in Thailand is minimal. However, compulsory third-party motor insurance was introduced through the Motor Accident Victims Protection Act B.E. 2535 (1992). The Office of Insurance Commission, an independent government organisation, was established in 2007 by the enactment of the Insurance Commission Act B.E. 2550 (2007) to take over the responsibility of day-to-day administration from the Department of Insurance, Ministry of Commerce.

There is a specific law i.e. Direct Selling and Direct Marketing Act of 2002 under the responsibility of the Office of the Consumer Protection Board. This Act, enacted in 2002, is the important law to regulate direct selling and direct marketing businesses. It is now in the process of being revised regarding conditions and details of registration of business operators

for direct selling and direct marketing activities, such as stipulation on the following matters, i.e. the security must be made by the business operator, the business operator must be a “company”, the criteria for security payment to compensate for damages, etc which will better benefit the consumers. At present (December 2010), the draft Act has already been approved by the Cabinet and is now in the consideration process of the Council of State.

The Trade Competition Act of 1999 under Department of Internal Trade, Ministry of Commerce, aims to protect competition and the competitive process in Thailand. The Act prohibits practices like:

- Fixing or maintaining unreasonable purchase or selling prices; including fixing compulsory conditions (or vertical restraints) between an upstream firm and a downstream firm; suspending, reducing or restricting services, production, purchase, distribution, deliveries or importation, without justifiable reasons; destroying or causing damage to goods in order to reduce the quantity to that lower than the market demand; and from intervening in the operation of the business of other operators without justifiable reasons (Section 25(1)–25(4));
- Price fixing and other collusive agreements with another business operator (Section 27(1)–27(10)); firms may, however, request permission to engage in the acts otherwise prohibited in Sections 27(5)–27(10) if they do not result in an increase in market power (Section 37);
- Restricting opportunities of persons in Thailand intending to purchase goods and services directly from foreign business operators with whom the business operator itself has a business relationship (Section 28);
- Entering into a merger which may result in monopoly or unfair competition unless permission is granted (Section 26);
- Carrying out any anti-competitive acts that destroy, impair, obstruct or restrict the business operation of other business operators (Section 29). Section 29 is a catch-all section.

In commercial transactions, the Trade Competition Act, which replaces the Anti-Monopoly Act (1979), governs the practice of all parties, in their course of business, to be within the boundary of free and fair competition. The purpose is to intervene in the market when the rights of consumers may be infringed upon. The spirit of this law is distinctly to preserve the free and fair competitiveness of the market and to discourage business operators from anti-competitive activities.

Anti-competitive acts consist of, among others, unfair pricing, abuse of dominance, coercive selling or purchasing at a set price or volume, price discrimination and tying. This Act prevents the unfair amendment of contract terms, such as when a dominant firm, without due notice or without obtaining prior consent from its contracting party, raises specific rates for service fees or unfairly terminates the contract or engages in a collusive agreement concerning entrance fees. All of the above cases have been brought to attention for being practices of anti-competitive acts.

Hence, special consideration is to be given to section 29 of the Trade Competition Act, the most controversial provision of this act, which reads: 'Business operators shall be prohibited from engaging in anti-competitive activities that destroy, damage, obstruct, impede or restrict the business operation of others or with the purpose of preventing the business operation of others or in order to force others out of business'

In Thailand three laws deal with Unfair Contract Terms: the Consumer Protection Act (1979), the Unfair Contract Term Act (1997) and the Trade Competition Act (1999).

The Consumer Protection Act, as discussed in Section 3.1.1, empowers the Consumer Protection Board on Contracts to consider any business using a written contract to be a “contract-controlled” business. The so-called “controlled contract” to which a business operator and a consumer are parties must adhere to the following elements:

- Essential provisions, as determined by the Board, whereby without such essential provision the consumer could be in a disadvantaged position compared to the business operator;
- Prohibition from applying unfair terms to the consumer.

The Board on Contracts determines mandatory terms or conditions to be applied to a controlled contract. Non-compliance shall enforce the disputed contract as if it has duly incorporated aforesaid mandatory term/s or condition/s. In the case any essential or unfair term/s in a controlled contract is deemed by the Board to be excluded but persists therein, the designated unfair terms shall be considered null and void, without prejudice to the rest of the contract.

The main principle of the Unfair Contract Terms Act B.E. 2540 (1997) Act is that the Court will examine the terms in a contract by consideration of the good faith of all parties to it, what the parties have done, and the potential negative effects on the parties. Additionally, any term in a contract between the parties, which is made for excluding or restricting liability before the result has occurred, is void and unenforceable. However, this Act is not retroactive for contracts made before 15th of May, 1998, which is the date of initial enforcement. The terms with characters or effects in a way that the other party is obliged to comply or bears more burdens which could have been anticipated by a reasonable person in normal circumstance may be regarded as an unfair contract term such as:

- A contract rendering the contract liable to be terminated at any time, and granting the right to terminate the contract immediately without remedy to any other party involved.
- A contract term rendering another party to be more liable, or to bears more burden, than that prescribed by law.
- A contract granting the right to a party to claim or compel another party to bear more burden than that which could have been anticipated by a reasonable person in normal circumstances.

In summary, the Unfair Contract Terms ACT, B.E. 2540 (1997), has the legal principle for the consumer that: the consumer can request the Court to remedy unfairness in a contract to a more equitable level. This is not restricted to the terms in a contract, which cause a consumer to bear excessive burdens, but also the Court can consider what contract or agreement is unfair, and so order any such deemed unfair contract to be amended as is appropriate and equitable depending upon the case. The success of this Act depends upon the role of lawyers, the decisions and interpretations of the judges presiding on the cases, and Society’s resolve to deal with contract unfairness as prescribed in this act.

Under the Unfair Contract Term Act, “consumer” is defined as 'Any person entering a contract as buyer, lessee, hire purchaser, borrower, insurance applicant or party to any other

type of contract in order to acquire property, service or any other interests with remuneration, provided the transaction is NOT for commercial purposes¹.

The contractual parties under this act are consumers and business operators, whereas those under the Trade Competition Act are both traders and/or business operators. In protecting the rights of consumers or individuals, the law applies to form contracts, provided in the course of business by traders and business operators. Consumers with little negotiation or bargaining power are at a disadvantage and thus shall not be subject to unfair clauses.

The Unfair Contract Term Act provides that a term is unfair if it causes an imbalance in the parties' rights and obligations under the contract. Terms shall be respected to the extent that they are fair and appropriate. In case of doubt, a disputed contract shall be considered in favour of the party not requiring the term. Examples of unfair terms to the detriment of the consumer include, inter alia:

- A term exempting or limiting the liability for breach of contract;
- A term demanding liability higher than required by law;
- A termination clause, giving the right to terminate the contract without reasonable grounds or giving the right to terminate regardless of the other party's fault or breach of a material clause of the contract;
- A term giving right to a party to claim or requiring the other party to be liable for more obligations than it actually has at the time of the execution of the contract.

This act requires the contracting parties to litigate in case of dispute; no Board or Commission is involved. There are four key criteria that actions under this law require be considered and decided by the court:

- Good faith, bargaining power, economic status, awareness and understanding, experience, foresee ability, normal practice, other options as well as loss-gain of the parties
- Customs of each particular contract
- Time and location of the contracting or the performance of the obligations there under
- Imbalance of the rights and obligations under the contract to the detriment of the other

The Unfair Contract Term Act is passed in response to the change in Thai society where the gap between the bargaining power of one contracting party and the other is significantly large. Therefore, the general Thai concept of freedom of contract in these cases is superseded by the notion of genuine intent. Thus, this act confers on to the court the power to determine and rule, subject to the said four key criteria, for terms in consumer contracts to be respected only to the extent that they are fair and acceptable.

3.2 INTER-AGENCY COORDINATION

There are some level of inter-agency coordination reported such as in the Cosmetic Committee with thirteen representatives from government sector and six representatives from private sector is appointed as advisory board to the Minister of Public Health on regulatory and technical aspects of cosmetics.

Inter-agency coordination is reported between OCPB and Ministry of Education to integrate Consumer Education as part of the academic core curriculum.

3.3 REDRESS MECHANISMS

Mechanism of Consumer Complaints Handling Mechanism is based on:

- **Mediation:** Under the Redress Mechanism, considering the facts from the complainant, the Consumer Protection Board through its officials will initiate the Preliminary mediation (consumer) by calling the business operator and the consumer for mediation. In case the preliminary mediation fails the case will be referred to the Sub-Committee on Complaint Scrutinisation for further consideration.
- **Prosecution:** Based on Sub-Committee on Complaint Scrutinisation decision, the Consumer Protection Board's will file a court case on behalf of the consumer without any payment of government expense where the consumers shall be provided with redress.

Under the new Constitution promulgated in 1997, substantial changes have been made in Thai political, social and legal environments. In the field of civil justice system, case management by the judge and alternative dispute resolution (ADR) is encouraged.

ADR in its official form has been a recent development in Thailand. The longest and most successful arbitration centre is the Arbitration Office, Ministry of Justice (Now called the Thai Arbitration Institute)²³. In the first year of its establishment in 1990, there was one arbitration case. In 1999, there were a hundred cases involving disputes over constructions and breach of contracts filed at the Arbitration Institute. At the outset of the establishment of the Arbitration Office, it was hoped that arbitration would reduce the workload of court in civil cases. After ten years in operation and the caseload of approximately a hundred per year, it is hardly likely that arbitration would reduce any substantial number of cases going to court²⁴. Other arbitration institutes are simply in their embryonic stage. The existence of which are signs of development and for prestigious reason.

Article 39 of the Consumer Protection Act B.E. 2522 (1979) provides the Consumer Protection Board with the power to appoint a public prosecutor or an official from the OCPB as the consumer protection officer. The officer would have the authority to take legal action as assigned by the OCPB for cases that are related to the violation of the rights of the consumers. In filing a case in Court, the CP Officer has the power to sue for property or

²³ Since the new Constitution (1997) and the introduction of separation of the Judiciary from the Ministry of Justice in accordance with the Constitution, the Arbitration Office of the Ministry of Justice has become the Thai Arbitration Institute, Alternative Dispute Resolution Office, Office of the Judiciary.

²⁴ The present figure stands at approximately 850,000 cases per annum. In 2000 there were 840,939 cases filed in the courts of first instance throughout the Kingdom. See www.judiciary.go.th for more detail.

compensation on behalf of the consumer, without chargeable service fee. The grounds for legal actions are as follows:

- i) There is a request from a consumer who is a consumer as defined in Section 3 of the Consumer Protection Act B.E.2522 (1979);
- ii) There is a violation of consumer's rights;
- iii) Such legal action will be benefit to the consumers in general by taking the following into account:
 - Nature of Business Operation
 - Result of legal action

The newly adopted Consumer Case Procedure Act 2551 (2008) is an important legislation with respect to handling disputes between consumers and business operators. The Act contains both procedural and substantive provisions. The new law, which took effect on August 23, 2008, has provided avenues for consumers to file complaints against business operators for various types of violations. Under the Consumer Case Procedure Act 2008, the consumers can get redress on product liability claims against business operators. It simplifies and expedites the legal process for an injured party to seek redress. The Act simplifies and expedites the legal process for consumers to seek redress when they are injured or have sustained damage by allowing consumers to file complaints orally, by having the Case Officer arrange for the recording of details of the complaint and ask the plaintiff to sign. Moreover, to ensure access to legal remedies for all, the Act waives court fees for consumers who wish to file an action (although restrictions apply). The court is also given considerable discretion under the Act to conduct the proceedings and to make sure that consumers receive fair treatment.

3.4 CONSUMER PROTECTION PROGRAMMES, INITIATIVES AND BEST PRACTICES

3.4.1 Programmes and Initiatives

In Thailand, OCPB promotes and encourages the education of consumers across the country. OCPB is involved in providing consumer education in general as well as on matters pertaining to the safety and potential dangers of goods/ services and promotion of efficient utilisation of natural resources. With its rural network, OCPB reaches to rural areas. A provincial sub-committee in every province, with the governor as chairperson has the power and the duty to provide educational information to the public. Consumer education has been formally institutionalised through OCPB and Ministry of Education. Table 3.2 below listed the involvement of different institutions in promoting consumer education in Thailand.

Thailand's education programmes have been reformed to include making consumer protection as part of the core curriculum. All responsible institutions, particularly the OCPB, co-ordinate the implementation of different aspects of consumer education according to government policies. However, there are no specific strategies or measures to link the major initiatives. Therefore, while the OCPB sometimes collaborates with other ministries, such as the Ministry of Education and the Ministry of Commerce, to exchange information and to develop strategies, the functions of the relevant organisations sometimes overlap.

Table 3.2: Institutional framework for consumer education in Thailand.

Institution	Educational role	Legal grounds
OCPB	Promote and provide education for all consumers. Prepare strategies for providing education with the Ministry of Education and other relevant public agencies.	Consumer Protection Act of 1979
Ministry of Education	Work cooperatively with the OCPB to prepare strategies for providing education, focusing on students and teachers at all educational levels.	Basic Education Curriculum of 2001
Thai Food and Drug Administration	Ensure that food, drugs, cosmetics, medical, narcotic substances and household hazardous substances available to consumers are of a standard quality, efficacy, and safety. The main tasks of the office are control and monitor manufacture, import, transport, storage and sale of such goods.	Food Act (1979); Drugs Act (1977) Cosmetics Act (1984 Narcotics Act (1979) as amended Psychotropic Substances Act (1984) as amended Volatile Substances Act (1982) 7. Medical Devices Act (1980)
Drugs Board	Issue, Suspend or cancel licenses, and fine or imprison for breaches of specific duties imposed by the Act.	Drugs Act (1977)
The Thai Credit Bureau (TCB), Fiscal Policy Office	Operate credit information business based on fairness and respect for the consumers' privacy rights and their rights to be considered for credit, while providing essential credit information for the benefits of the Thai financial system.	Credit Information Business Act, B.E. 2545 (A.D. 2002)
Department of Internal Trade, Ministry of Commerce	Protect competition and the competitive process.	Trade Competition Act of 1999
Lawyers Council of Thailand	Register attorneys, issue licences, institute disciplinary action and promulgate codes of conduct	Lawyer Council Act 1985

Table 3.2: Institutional framework for consumer education in Thailand. *(continued)*

Institution	Educational role	Legal grounds
Thailand Nursing Council	Provide nurse and midwife licensing examination	The Nursing and Midwifery Professional Act B.E. 2528
Department of Health Service Support, Ministry of Public Health	Control the practice of all other health professions, including traditional medicine practitioners.	Medical Registration Act 1999
Ministry of Public Health	Promote Health and well-being of Thai people, provide medical treatment	1997 Constitution of Thailand
Metropolitan and Provincial Electricity Authorities	Provide electricity in Bangkok and provincial areas.	Metropolitan Electricity Act of 1967
Metropolitan and Provincial Waterworks Authorities	Provide safe water to people in Bangkok and provincial areas.	Metropolitan Waterworks Act of 1967
Ministry of Information Technology and Communications	Allocate Wave Frequency and Supervision of TV and Radio Broadcasting and Telecommunications services.	TV and Radio Broadcasting and Telecommunications Act of 2000
Consumer Court	Consider and judge consumer rights/violence related cases submitted by consumers	Consumer Case Procedure Act of 2008

According to the Consumer Protection Act of 1979, consumer education should: Encourage people-based networking throughout the country at all levels to acquire knowledge about their rights with regard to consumer protection, which include:

- The right to receive correct and sufficient information about goods and services, as well as an indication of the quality of the goods and services.
- The right to enjoy freedom in choosing goods and services.
- The right to expect the safety of the goods and services acquired.

- The right to receive a fair contract.
- The right to have any injury considered and compensated.
- To encourage consumers to learn about how to protect themselves and what to do when their rights are infringed.

Consumer protection through education and awareness has been the main focus for OCPB to minimise potential violation of their rights, as the OCPB believes educated consumers are less likely to have their rights violated. As such, due to the potentially low awareness on their rights, consumers in rural areas are more vulnerable than those in cities due to their limited understanding and education on consumer related issues. At the same time, protection of the public interest is also an element of consumer education. In particular, the OCPB is currently working on raising consumers' awareness of sustainable consumption through education at schools and other educational institutions.

The OCPB is also encouraging educational institutions to participate in the development of consumer protection. These are viewed as a source of studies and research on consumer protection both nationally and internationally. Teachers at all levels of academic institutions are playing a more prominent role in delivering consumer education, integrating consumer protection issues in their curriculum, and providing recommendations to the government on changes needed to improve consumer protection.

Participation in conferences is regarded as one of the more effective ways to promote collaboration. Stakeholders are invited to present their opinions and recommendations. Such conferences are organised by the government on a regular basis. In addition, the government has launched the following measures to strengthen co-operation with the private sector:

- Providing a club, association, etc., on consumer protection in which local organisations become part of a network.
- Sending consumer protection officials from the OCPB to gain knowledge and understanding of consumer rights.

The National education strategy and policies were reformed in 2001 to include certain provisions of Consumer Protection Act; The Basic Education Curriculum of 2001 encompasses the education provisions of the Consumer Protection Act of 1979. Consumer education is included in the core curriculum in three areas: economics, health and business. Attention currently focuses on three initiatives:

- Establishing an integrated plan to educate students about consumer protection at level 3 (grades 7-9) and level 4 (grades 10-12) and establishing a plan for training school teachers around the country.
- Setting up core schools in each province to take responsibility for disseminating information on the protection of consumers' rights and expanding the school network for consumer protection in the core schools to nearby schools.
- Describing clearly the objectives of consumer education initiatives in the school curriculum and evaluating the number of teachers and students engaged in consumer education initiatives, as well as the quality of the initiatives.

With regard to consumer education in schools, consumer protection groups are formed in academic institutions and provide education in line with the basic curriculum at secondary schools around the country. Consumer education is combined with other subjects in the compulsory curriculum for three credits. The OCPB is also sending consumer protection officials, such as lawyers and investigators, as visiting lecturers to schools, colleges and universities around the country.

Children under 18 years of age are considered the most vulnerable, as they are most easily influenced by the media, particularly advertisements. The media may influence them to change their eating habits and risk overeating and consumption of junk food and unnecessary products. Children are also likely to be harmed by unsafe, hazardous products and are vulnerable in that regard as well.

Consumer education in Thailand covers all life stages but in a de facto manner as there are no specific strategies of lifelong learning. Consumers have opportunities to access seminars organised by the government in order to update their skills or knowledge through information provided by consumer experts, or the OCPB, throughout their lives.

For adult education, the government has launched various types of seminars throughout the country to provide consumer education to adults who did not receive it at school so that they can gain knowledge of their rights as consumers. They target consumers from all walks of life, particularly housewives.

Teaching materials in Thailand for educating consumers include various kinds of teaching materials, such as publications and periodicals, are prepared by the government to be distributed to the public. CDs and handbooks are prepared for school teachers as well. Teachers also receive consumer protection test sheets for schoolchildren. The government sometimes updates these materials to make them better suited to current consumer issues, but it faces resource limitations from time to time.

To develop teachers' skills in the area of consumer education, the government regularly organises intensive and comprehensive training and workshops on consumer protection for teachers at primary and secondary schools. Those who complete the training receive a certificate from the OCPB.

Continuous promotion and support on consumers' rights awareness are done via distributing informative brochures and materials, disseminating knowledge on the aspects of consumer protection through various media, organising seminars, having the school's curriculum with consumer protection elements, and setting up the local consumer protection clubs countrywide both school-based and people-based.

Intra and inter agencies coordination and cooperation in consumer education and awareness is more apparent in Thailand. The government is co-operating with representatives of consumer organisations in implementing different grassroots activities. The relevant organisations include Consumer organisations, particularly NGOs, are active in helping consumers by disseminating knowledge and fostering a proper understanding of consumer protection. NGOs, which have been active in this regard, are: the Consumer Force Association of

Thailand; the Consumer Beneficial Protection Association; the Consumer Rights Protection Association; and the People's Rights and Beneficial Protection Association.

In addition, Businesses or the private sector are also involved in providing consumer education. The government has been encouraging them to educate their personnel to be sensitive to consumer rights and to conduct business with consumers with transparency and accountability.

The media have sometimes partnered with the government to provide consumer education. However, the government considers that they could play a more important role and has tried to encourage their involvement in consumer education initiatives. The government has launched some initiatives to develop and broadcast radio programmes to disseminate knowledge on consumer protection.

In Thailand consumer protection is not limited to the government sector but is spread across different sectors. Government has advocated setting up private sectors organisations in several forms:

- Providing clubs/associations for consumer protection in the provinces and expanding to districts, villages and local administration organisations as a network on consumer protection.
- Providing consumer protection volunteers to gain knowledge and understanding in the rights of the consumer protection, protecting of their rights as a consumer, being a network on consumer protection, monitoring the behaviour of the business operators that may exploit the consumers or violate the right of the consumers.
- Setting a group of consumer protection in schools and educational institutions at all levels.
- Recognising or certifying the associations having the objective on consumer protection to have the right to make a prosecution in the civil and criminal cases or any proceedings on behalf of the members for consumer protection.

The leading non-government consumer organisation in Thailand, Foundation for Consumers, (FFC) is founded in 1994 by the CCPN (a non-governmental and non profit organisation, founded in 1983, which coordinates health groups in the country). The FFC works directly with consumers and consumer protection policy advocates. Its objectives are (1) to coordinate consumers and consumer organisations, (2) to promote, empower and strengthen consumers and consumer organisations in their participation in consumer protection, (3) research on and study of consumer issues for policy and (4) to coordinate and co-operate with national and international consumer protection organisations.

The FFC is reported to have contributed to the increasing number and quality of other consumer organisations such as the Complaints and Legal Assistance Centre. The centre not only handles individual consumer matters but also tries to work at the policy level on protection scheme to help improve the legal system by solving consumer problems in a timely manner. Interesting cases are published in annual media platforms including in the consumer magazine “Smart Buyer Magazine”. This magazine was first published in 1994 as a bimonthly magazine known as the leading magazine on consumers’ rights, consumer protection, product

testing results, misleading and condemned products. The magazine is exclusively distributed to more than 12,000 subscribers.

As informed during the field visit, FFC works closely with the media. A weekly one-hour long live television program called “Assembly of Consumers” was launched in May 2000. It is reported to be very successful in educating on and publishing consumer facts and important information that may help consumers to make informed decision. Other media issues are the correctness of advertisements or labelling, the correct declaration of weight, food supplements, direct selling and marketing, and telecommunication.

FFC also carries out public campaigns is very actively. One example is: “Show your Bad Products and Services”, the first consumer assembly that invited consumers to turn in their own bad products or bad service experiences in exchange for a bag of healthy brown rice. Over 600 consumers had joined this two-day event.

Specific consumer policy campaigning, such as health care, (consumption of medicine, access to affordable medicine in respect to high prices and monopolies/HIV, and corruption) has also been conducted by FFC.

Coordinating Committee on NGOs for Primary Health Care was established in 1983. The committee is composed of representatives from such NGOs as the Rural Doctors Club, the Drug Study Group, the Rural Pharmacists Club, etc. Major activities that the committee implemented include:

- making policy recommendations on consumer protection such as banning tobacco advertisements in the media;
- revoking such unsuitable drug formulas and some paediatric drugs;
- banning caffeine from certain analgesics;
- protesting against the amendment of the B.E. 2522 (1979) Drug Act;
- campaigning on the use of generic names of drugs;
- implementing the ‘No Trade Name Project’;
- educating the public through print media (newsletters, journals, booklets), posters, videos, slides; monitoring of programmes implemented as planned by various agencies;
- suggesting options to the public such as alternative medicine, herbal medicine, massage, and natural agriculture

Consumers Support Project of the National Women’s Council under the Patronage of Her Majesty the Queen is a long-term project aimed at providing consumption education to consumers of all ages and sexes, in and outside school, emphasising justice, safety and economy. Major activities carried out include publishing a magazine “Smart Consumption” (Chalad Boriphok), training women’s leaders as good consumers’ leaders, and inspecting consumer goods such as food with colouring additives and detergents.

Under the other National Initiatives for Consumer Education, Consumer Education and Protection Initiative (CEPI) under the Asia-Pacific Economic Cooperation (APEC) has been a landmark program. Launched in 1998, this initiative is a public-private partnership program between APEC economies and business. The overall objective of the CEPI is to facilitate

SME growth and contribute to economic stability, revitalisation, and long term growth in APEC economies.

From the mapping activities by the study found that different stakeholders in Thailand are conducting various programmes and initiatives which are summarized in Table 3.3 to Table 3.11.

Table 3.3: Consumer education and awareness programmes

Sectors	Name of Organisation	Name of Programmes/ Activities	Target Audience
Government	Thai Industrial Standards Institute	Standardisation Promotion in Education Project; and Standardisation Promotion for Better Quality of Life	Teachers and student; Community leaders and local administration officers
	Office of the Consumer Protection Board (OCPB)	Consumer Protection Curriculum; Seminar on various consumer issues	Citizens, business operator, civil organisations, government officials etc.
	Office of Judiciary	Consumer Complaints Handbook	Consumers
	Office of the Insurance Commission	Coordinate with Academic Institutions to promote the awareness of benefits and importance of insurance	Youth
	FDA	Educational Programmes on Not Easily Belief Project; Young FDA Inspector Project; Food Safety; Smart use of Antibiotic Project	General consumers especially the youth and students
Private sector	Health Consumer Protection Program	Educational Programmes for Pharmacists at the provincial level; “Younger FDA” to provide information about health for the consumers, the students need to create activity on how to protect themselves from dangerous product such as food and health products	Pharmacists, Students, Youth and general consumers
	The Thai E-Commerce Association	Using Internet for business transactions-online fraud	All categories of consumers
NGOs	Ecological Alert and Recovery	Community Level Education Programmes	Community
	Foundation for Consumers (FFC)	Television Education Programmes; Organising Seminars through networks on issues relating to food	Consumers

		safety, public transport, communications and energy;	
Others/ Private Bodies	Thai Retail Association	Product Liability Law	Not available

Table 3.4: Public Service Announcements/Alerts

Sectors	Name of Organisation	Name of Programmes/Activities	Target Audience
Government	Office of the Consumer Protection Board (OCPB)	Press Conference; Dissemination of information on various channels e.g. Website, TV, radio etc	Not available
	Office of the Insurance Commission	Organising the insurance week event that people can exchange ideas on insurance with business sector	Consumers
	FDA	TV Scoops and Newspapers on consumer behaviour	Consumers
	Health Consumer Protection Program	Did not state the program's name	
NGOs	Foundation for Consumers (FFC)	FFC's Magazine 'Smart Buyer' and TV Programmes	Consumers
Other	The Telecommunications Consumer Protection Institute (TCPI)	Press release, urge public awareness	General consumers

Table 3.5: Joint Consumer Activities between the Private Sectors and Local Authorities

Sectors	Name of Organisation	Name of Programmes/Activities	Target Audience
Government	Thai Industrial Standards Institute	Showing exhibition about standardization	Consumer and students
	OCPB	Presenting of Award for business operators who have good performance	Business operators
	FDA	Health Products safety Surveillance Consumer Education	Consumers
NGOs	Foundation for Consumers (FFC)	Educational Activity	Not Available

Table 3.6: IEC Materials and Publications for Consumer Education

Sectors	Name of Organisation	Name of Programmes/ Activities	Target Audience
Government	Thai Industrial Standards Institute	Studying strategies for advertising and public relation for Thai Industrial Standards	Consumers
	Office of Judiciary	Books	Consumers
	OCPB	OCPB journals, Posters, Brochures, etc	Consumers
	Office of the Insurance Commission	Publish brochures and pamphlets to educate consumers about different types of insurance	Consumers
	FDA	Posters; Booklet; Brochures; Radio scripts; Exhibition set etc	Not available
NGOs	Ecological Alert and Recovery	Climate Justice	Consumers
	Foundation for Consumers (FFC)	Related aspects of consumerism	Consumers
Other	The Telecommunications Consumer Protection Institute (TCI)	Several pocket books on telecom consumers rights were published under The TCI's name	General consumers

Table 3.7: Research and Development (R&D)

Sectors	Name of Organisation	Name of Programmes/ Activities
NGOs	Ecological Alert and Recovery	Bi-Internal Partnerships
Other	The Telecommunications Consumer Protection Institute (TCI)	The consultants are hired to conduct research on telecommunication, and related issues

Table 3.8: Lobbying the Government (Public Advocacy)

Sectors	Name of Organisation	Name of Programmes/ Activities	Target Audience
NGOs	Ecological Alert and Recovery	Dumping policies	Community
	Foundation for Consumers (FFC)	Aspects related to consumer protection	Consumers

Table 3.9: Standards (Development, Setting, Monitoring, Verification)

Sectors	Name of Organisation	Name of Programmes/ Activities
Government	Thai Industrial Standards Institute	The Seminar on Improving Certification of Industrial Product Criteria
	FDA	Standardization Revisions Safety Monitoring and inspection programmes; Health Products vigilance
Private sector	Academic Network for Consumer Affairs (ANCA)	Did not state the program's name
NGOs	Foundation for Consumers (FFC)	Food Standards
Other	Thai Retail Association	Safety and Security Standards

Table 3.10: Product Testing

Sectors	Name of Organisation	Name of Programmes/ Activities
Government	OCPB	Surveying/testing products which might be harmful to consumers
Other	Thai Retail Association	Food Safety
NGOs	Foundation for Consumers (FFC)	Consumer Products

Table 3.11: Market Surveillance (Price, Quality and Safety)

Sectors	Name of Organisation	Name of Programmes/ Activities	Target Audience
Government	Thai Industrial Standards Institute	Certification of Thai Industrial Standard Product Store Project	Dealer
FDA	Surveillance Department	Health Product Safety Surveillance	Consumers

Programmes have been launched in Thailand that included work by the Thai Direct Selling Association (DSA) with Thailand's Consumer Protection Board and other non-governmental organisations in Thailand to create a model of consumer protection advocacy in Asia and specifically within the APEC CEPI program. Following the Bangkok CEPI conference, the Thai Consumer Protection Board created a "Consumer Protection Youth Club" whose purpose is to educate Thai youth about consumer protection concepts. All secondary schools and colleges in all provinces nation-wide in Thailand are required to take a compulsory curriculum on consumer protection. The curriculum will be run through Boy Scout Clubs and during summer vacation. Supporting the initiatives of the government, the Thai DSA teamed up with a Thai direct selling periodical to create a "Mobile Consumer Protection Program" to educate people about consumer protection in Thailand's provinces. The specific topics include fundamentals of consumer protection and how to identify and avoid pyramid schemes.

3.4.2 Best Practices

Identification of best practices in Consumer protection program implementation is generally made based on the following criteria.

- i. there is continuity, replication and follow-up, with regular reporting and updates (each time the program is conducted)
- ii. meets the objectives and targets of the program
- iii. program is evaluated by participants
- iv. documentation of the program's effects
- v. reaches out to target groups as expected or beyond
- vi. program is implemented within the budget

The Thai government has reformed education on the basis of the Basic Education Curriculum of 2001, so that it encompasses the education provisions of the Consumer Protection Act of 1979. Consumer education is included in the core curriculum in three areas: economics, health and business. Attention currently focuses on three initiatives:

- Establishing an integrated plan to educate students about consumer protection at level 3 (grades 7-9) and level 4 (grades 10-12) and establishing a plan for training school teachers around the country.
- Setting up core schools in each province to take responsibility for disseminating information on the protection of consumers' rights and expanding the school network for consumer protection in the core schools to nearby schools.

- Describing clearly the objectives of consumer education initiatives in the school curriculum and evaluating the number of teachers and students engaged in consumer education initiatives, as well as the quality of the initiatives.

Under the CEPI program, the Thai DSA endeavoured in providing consumer education to consumers in remote and backward areas by moving from one location to another according to a well-prepared plan and schedule to teach people on different aspects of consumerism. Specific topics they taught to consumers are fundamentals of consumer protection and how to identify/ avoid pyramid schemes. Nearly 900 people participated in the program when it was launched. Though this program is a successful initiative, there is no much information on whether it is still being implemented.

Under the CEPI program, the Thai Consumer Protection Board created "Consumer Protection Youth Club" whose purpose is to educate Thai youth about consumer protection concepts. Compulsory curriculum on consumer protection was incorporated in the learning of Boy Scout Clubs. Though this program was a successful initiative, there is no much information on whether it is still being implemented.

4. NEEDS ASSESSMENT FOR CONSUMER PROTECTION

4.1 ANALYSIS OF SYSTEM, INSTITUTIONAL AND HUMAN RESOURCE CAPACITY GAPS

The analysis on the General Survey provides the basis for the assessment of Capacity Building Needs in consumer protection programmes in Thailand. This was later validated through Key Informant Interviews (KIIs) and Round Table Discussion (RTD). As a whole, majority of the stakeholders placed the following areas as the constraints in implementing consumer protection activities in Thailand:

Skilled staff

- Access to training
- Access to information for specific areas
- Access to Experts

The General Survey findings also indicate that most of the CP agencies follow the rules and regulations in recruiting their personnel. It is noted that only 4 (36.4%) out of 11 stakeholders have a division/department/unit on consumer protection with assigned staff having mainly the technical capacity related to their areas of work, with minimal connection to rights of consumers or CP. The staffing capacity among the 7 selected stakeholders is commonly supported by full-time employment, engaging consultants based on the expertise, especially for OCPB. However, 54.5% of the stakeholders have their work areas related to consumer redress through complaints handling system providing mediation and arbitration service, with all of them using Thai Language in their operation.

Table 4.1 highlights the areas of difficulty faced by stakeholders that include:

- Adequate number of staff
- Access to information key subject areas
- Adequate finances
- Staff with appropriate experience/skills/qualifications
- Coordination among relevant agencies/organisation

Based on the primary and secondary research of this study, it was found that the following are the main areas to be addressed in enhancing consumer protection in Thailand:

- Accurate information on products and services in the market
- Independent Organisation for Consumer Protection
- Lack of proper enforcement of Laws and Regulations
- Unfair terms and contracts
- Safe products in the market place(product safety and liability)
- Medical services (cost of medical services)
- Medical cost coverage under different systems
- Inappropriate Media (misleading advertisements)

Highest Index of difficulty of 4.93 is recorded to having adequate number of staff to work on consumer protection in respective department/ division among the stakeholders while the least difficulty is experienced in accessing to Internet services with regards to its enabling factor towards implementing consumer protection programmes.

Table 4.1: Level of difficulties among Stakeholders in Implementing Consumer Protection

TYPES OF DIFFICULTIES	LEVEL OF DIFFICULTY INDEX
Adequate number of staff	4.91
Adequate finances	4.73
Access to information key subject areas	4.73
Coordination among relevant agencies/organisation	4.45
Staff with appropriate experience/skills/qualifications	4.27
Access to training	4.00
Access to experts	3.82
Adequate Laws	3.64
Staff turnover	3.45
Office space	2.91
Office location	2.55
Office equipment or facilities (computer, fax, photocopier)	2.45
Facilities (meeting room etc)	2.27
Access to Internet	1.55

4.1.1 Inadequate Number of Staff

Consumer complaints require direct handling by the relevant authorities such as the OCPB and/or government officers depending on the issue and process. For example, in case of any offence by business operators under the jurisdiction of the OCPB with its regular presence or where OCPB has a branch office, immediate and targeted action to address the concern or complaint can be effectively carried out. However, in cases where the OCPB has no jurisdiction or has no regular presence or branch office, the actions to address the complaints may be handled by other legal authorities, appointed by the Minister, such as the Police, Land Officers, provincial physicians, provincial public health officers, provincial agriculturist officers, investigators, or the Department of Intellectual Properties.

It is to be noted that the action taken by these authorities, to handle consumer related issues, is not within their direct duty or function. As such, spending much time and expenses to deal with consumer issues can affect their main functions. Thus, any action for CP is considered as a secondary duty to be acted after their main duty, leading to delay of consumer protection actions. Many authorities are appointed from other government organisations, out of the OCPB. This suggests a problem in the lack of personnel. Although appointment of the government officers to act or to jointly act is one appropriate solution, it may lead inefficiency in complaint handling. Therefore, the problem of lack of personnel is another critical issue requiring urgent solution.

The above-mentioned fact indicates that the current organisations cannot respond to the need of enforcing the consumer protection law. Public organisations in charge of electronic transactions have added CP on their scope of work, but its effectiveness is yet to be seen.

4.2.2 Program Budget and Finance

Generally, the Study found that there are two types of public organisations which lack budget: 1) public organisation with a direct duty on CP and 2) public organisations with other duties, not directly related to CP. The former is the Office of the Consumer Protection Board, including its authorities and Field Consumer Protection Board. The latter are government officers in other governmental organisations, appointed by the Minister to be the responsible authorities under the Consumer Protection Act of 1979, for example, government officers of the Department of Administration, Royal Thai Police, Sanitary Division, and Provincial Public Health. Office of intellectual Properties, Office of the Attorney General, Department of Provincial Administration, District Administration, Bangkok Metropolitan Administration, and Municipality that have Provincial Consumer Protection Board and apart from Bangkok.

The Government annually allocates budget for the public organisations with direct duty on consumer protection. Even the provincial consumer protection offices have allocated budget, but limited. Such budget is mostly used for administrative work. As such, the operation of the Office of the Consumer Protection Board is limited due to insufficient budgets allocated to support CP activities and programmes. Besides, the CP budgets of other associated public organisations like the Department of Administration, Royal Thai Police, Sanitary Division, Provincial Public Health, are not allocated for specifically, and are primarily based on their main functions.

4.2 CAPACITY BUILDING NEEDS AND STRATEGIC THRUSTS

As discussed in Section 4.1, the CP stakeholders in Thailand face difficulty in implementing consumer protection programmes and activities due to inadequate number of staff and inadequate budget. It was also highlighted that in Thailand more laws may be necessary in order to strengthen consumer protection.

Majority of the stakeholders has identified the following forms of assistance to overcome the existing situation for effective implementation of Consumer Protection Programmes and Activities in Thailand:

- Skills Training in Negotiation or mediation, conflict management
- Strengthening coordination through workshops among different agencies
- Organising study visits for learning and exchange
- Training in preparation of manual and tool-kits
- Networking assistance from within agencies and among AMS
- Provision of technical support for specific issues
- Staff exchanges
- Twinning actions among agencies or institutions from the ASEAN region
- Joint seminars for local actors
- Sourcing additional financing

Based on the data obtained from the GS Questionnaire, majority of the stakeholders was found to have a medium or moderate level of difficulties in implementing consumer protection activities and programmes. Six main constraints were identified as the potential areas for capacity building needs in CP in Thailand as discussed in Section 4.1.

Generally, the CBN of stakeholders in Thailand could be categorised into 4 strategic thrust areas as:

- Laws and programmes on CP
- Enforcement
- Redress mechanisms
- Implementing agencies on CP

Thus, specific needs highlighted for capacity building in consumer protection from the GS were further supported and verified through Key Informant Interviews.

4.2.1 Laws and Programmes on CP

- Developing the National Consumer Protection Policy, and other appropriate laws, policies and programmes in relevant areas of work for consumer protection
- Developing strategic plans(master plan) for consumer protection
- Implementing Good standard development practices related to quality and safety standards
- Implementation and evaluation of consumer protection programmes (e.g. price monitoring and market surveillance)
- Research on existing consumer protection laws to cover emerging issues
- Awareness and educational programmes
- Consumer issues impacting on women

4.2.2 Enforcement

Limited number of staff has been highlighted as a contributing factor that affects the enforcement. Apart from limited budget recruitment, number of staff is also limited by the lack of qualified and experienced personnel. Enforcement officers, therefore, require regular training in order to keep abreast with the emerging consumer issues.

4.2.3 Redress Mechanism

This study found that consumer complaints are handled by different agencies. Under the Government, Office of Judiciary, OCPB, Department of Internal Trade and Thai FDA are handling consumer complaints. Similarly in the NGO and private sector, FFC and TCPI are handling complaints. However, the stakeholders suggested redress mechanisms and consumer representation need to be enhanced.

4.2.4 Implementing Agencies on CP

OCPB requires higher operational budget in order to acquire more qualified and experience staff, and to open more office branches in order to reach out to consumers through the country.

At the regional level, the needs for capacity building for ACCP members include (in the order of importance from short to long term):

- i) Harmonisation in rules and regulations
- ii) Standard level of protection for consumers in all over ASEAN Member States
- iii) Space for consumer protection related organisations (NGOs, professional, academic and related groups) to voice out in ASEAN – A common forum by ASEAN with the related organisations on Consumer Protection
- iv) A system should be in place for sharing experiences from different countries on different areas
- v) Enhanced role of ACCP as a platform for encourage exchange of information and evaluation mechanisms
- vi) Provision under ASEC to provide inputs and share information from other platforms
- vii) Provision for training or study visits on new and emerging areas of consumer protection from already established countries
- viii) Yearly ASEAN consumer protection assembly to monitor consumer protection in the region
- ix) Knowledge management on consumer protection at ASEAN
- x) Pro-consumer oriented policy level should be enacted

4.2.4.1 Inter-agency coordination

Some of the stakeholders highlighted that coordination among relevant agencies/ organisations should be increased while providing access to experts on different areas of consumer protection.

5. RECOMMENDATIONS FOR CAPACITY BUILDING ON CONSUMER PROTECTION

5.1 CAPACITY BUILDING ROAD-MAP AND IMPLEMENTATION PLAN

To further enhance the development of ASEAN Economic Community and regional market integration, it is necessary that there is effective channelling of resources along with efforts for the increased capacity building needs in consumer protection. This needs to be done through the ACCP focal points, which are vital to continuously ensure tangible outcomes of consumer protection at the national level and in the ASEAN region.

With reference to the national Implementation Plan (Table 5.1), the roadmap for capacity building in consumer protection for Thailand focuses on the following strategic objectives:

- i. Enhancing Human Resource Capacities and Needs
- ii. Developing Consumer Culture among Consumers in Thailand.
- iii. Promoting and enhancing quality of goods and services
- iv. Enhancing understanding and knowledge on legal mechanism
- v. Developing and enhancing the effectiveness of specific laws and provisions governing electronic transactions for consumer protection.
- vi. Enhancing Support for Civil Society Organisations and Private Sector.
- vii. Developing and Enhancing Public and Private Redress Mechanism
- viii. Enhancing Development of national consumer movement.

The proposed time-frame in implementing the actions are recommended by 2015, categorised as follows:

1. Short-term: within 1 year (2011)
2. Medium-term: within 3 years (2011-2013)
3. Long-term: within 5 years or beyond (2011-2015 or beyond)

Strategic Objective 1: Enhancing Human Resource Capacities and Needs

Actions:

Short term

1. Allocate budgets to employ personnel for law enforcement. The budget of the Office of the Consumer Protection Board, which is an important organisation to efficiently enforce the Consumer Protection Act, should be separated from authorities in charge of inspection and those proceeding against business that violate the Consumer Protection Act or other laws.
2. Allocate expenses for continuous working activities of personnel in other organisations like the Office of the Attorney General, Royal Thai Police, Court of Justices, and private organisations or associations. The enforcement budget can be regarded as an expense for active working activities against business entrepreneurs who neglect or intend to violate laws. Violators of

consumer laws should be punished for offences and feel fear of laws without waiting for consumers complaints prior to action.

Strategic Objective 2: Developing Consumer Culture among Consumers in Thailand.

Actions:

Short to medium term

1. Government to explore the possibilities on how to supplement consumer education as a life-long process among Thai consumers. This includes structuring to build knowledge in a cumulative fashion over time.
2. Disseminating consumer education in a variety of ways, taking advantage of both online and off-line resources. In the case of online resources it is, however, important to take the accessibility of information and communication technology into account, as well as the ability of targeted groups to use it. As the 1999 OECD Guidelines for Consumer Protection in the Context of Electronic Commerce suggest, stakeholders should use “all effective means to educate consumers and businesses, including innovative techniques made possible by global networks” (OECD, 1999). Strategies to maximize the effectiveness of online resources need to be developed and adapted as technologies evolve. Sites that draw together different elements of consumer education are important in this regard, as are social media (e.g. blogs). Developing effective strategies to attract consumers to these sites is also important.
3. Identifying examples of effective consumer education initiatives
4. Setting standards for consumer education work
5. Developing new approaches to consumer education that recognise individual learning needs.
6. Strategically deliver targeted, effective education modules by increasing coordination among different stakeholders like Government Agencies, Consumer Organisations, CSOs and media to make best use of available resources.

Strategic Objective 3: Promoting and Enhancing Quality of Goods and Services

Actions:

Short to medium term

1. Enhance the adoption of national as well as international standards for the safety and quality of goods, services and technology;
2. Develop a long term framework to encourage and build capacity of consumer organisations to carry out testing of essential consumer goods and dissemination of information.
3. Develop standard mechanism to strengthen production and distribution patterns which are responsive to the needs of consumers, and with the goal of promoting sustainable consumption on an equitable basis;
4. Advocate and promote ethical conduct, transparency, consumer participation and responsiveness in the choice of appropriate technology and environmental

responsibility in providing goods, services and technology to consumers at all levels;

5. Promote the development of market conditions which provide consumers with appropriate choices at fair prices and right quality, and lesser burden on the environment;
6. Promote assessment of consumer impact in every area of governance where consumer interests are affected;

Medium to Long term

7. Encourage policies and programmes to enable sustainable production and consumption patterns; and
8. Promote regional and international co-operation in the field of consumer protection, sustainable consumption and production patterns.

Strategic Objective 4: Enhancing understanding and knowledge on legal mechanism.

Actions:

Short term

1. Develop user-friendly complaint processes that allow consumers to lodge complaints via multiple routes—telephone, in-person, in writing, through email etc. Ensure that the process is functionally accessible and eradicate features that cause customer dissatisfaction i.e., no costs, no difficulties getting through on complaint lines, informed staff to attend to the issues, no lengthy hold time, no complex menus, no long wait messages. Offer options to talk to someone at any point, and provide additional support for consumers with special needs, such as in-person meetings for elderly, low-income, English-speaking consumers, and consumers with disabilities.
2. Increase consumers representation through promoting consumer organisations to advise and provide support to consumers at all levels of administrative structures
3. Organise a database enabling the consumers to retrieve the required information relating to complaints and procedures. Set up a mechanism to publish information, news including judgements, articles and related matters for the guidance of consumers.
4. Efforts are to be made to Increase Visibility: Consumers must be made aware on "where to complain", that is, the complaints handling must be highly visible.
5. Efforts are to be made to increase accessibility for consumers on "how to complain", that is, it must be relatively easy to lodge a complaint. Obviously toll free or local call fee facilities can give consumers access to appropriate complaint handling facilities within your agency. Accepting oral complaints gives consumers greater access to complaints handling, particularly those who

have limited language skills

Short to medium term

6. Media (print, radio, and TV) could be used more effectively to generate consumer awareness on consumer redress, as partners with other stakeholders, or through their own programmes.

Strategic Objective 5: Developing and enhancing the effectiveness of specific laws and provisions governing electronic transactions for consumer protection.

Actions:

Medium term

1. Electronic transactions are to be brought under the control of the Ministry of Information and Communication Technology (I.C.T).

Strategic Objective 6: Enhancing Support for Civil Society Organisations and Private Sector.

Actions:

Medium term

1. The government to concretely set a detailed plan of its support. The plan to include the amendment of laws and policies for national development.
2. The government to set explicit regulations, terms and working procedures for associations to be funded, including the grant of rights to donors and financial support: for activities.
3. The government to act as the director and supporter rather than the controller or executor.

Strategic Objective 7: Developing and Enhancing Public and Private Redress Mechanism.

Actions:

Long term

1. The government is required to study and analyse the structure and performance of Government organisations.
2. In accordance with the real situation for each year, compare with the goal or policy set by the government, and have the organisation set its financial plan in advance to efficiently spend the budget.

Strategic Objective 8: Enhancing Development of national consumer movement

Actions:

Long term

1. Create shared concepts for people in terms of consumer rights protection as a duty of all people as consumers regardless consumer protection is welfare or duty of the government only.
2. Support regularly and continuously publicising consumers' rights through the media, and set up seminars or meetings for solving consumer protection problems. The government should also invite people or representatives of consumers to attend and give their opinion.
3. Facilitate meetings and activities, amend laws and procedures for setting
4. Certify associations without much expense and allocate budgets to support association activities to suitably comply with government requirements.
5. Create basic concepts that consumer protection to be the duty of people requiring co-ordination.

Table 5.1: National Implementation Plan for Capacity Building in Consumer Protection.

Focus Areas	Strategic Thrust Areas		
	Short Term till 2011	Medium Term 2011-2013	Long Term 2011-'15
ENFORCE PRINCIPAL CONSUMER PROTECTION LAW	Establishing Independent Organisation for Consumer Protection in Thailand;	<p>Developing comprehensive Consumer Complaints Management system as a single window system for creating a uniform preventive measure.</p> <ul style="list-style-type: none"> • Strengthening the transparency of market surveillance and enforcement investigations • Strengthening market monitoring, in particular the evidence base to identify markets where enforcement actions may be necessary • Stepping up international co-operation - though agreements with enforcement authorities in respective countries 	Review the functioning of the Enforcement mechanism to incorporate changes as per the market trends and practices.
STRENGTHENING COORDINATION THROUGH AMONG DIFFERENT AGENCIES	Intra-governmental co-operation among relevant organisations should be promoted. In particular, co-operation between education ministries and consumer affairs ministries is essential to strengthen consumer protection.	Stakeholders should work together to determine how to share consumer education responsibilities in different areas, with a view towards exploiting synergies and avoiding redundancy.	An intergovernmental relation system should be promoted that consists of facilitative systems and relationships that enable the units of government to participate effectively and carry out mandates so that governmental goal are achieved. This includes executive mechanisms, coordinating

<p>CONSUMER RELATED LAWS AND STATUES</p>			<p>mechanisms, cooperative agreements, judiciary and legislative mechanisms that all facilitate delivery by government machinery. Intergovernmental relations can thus be defined as the “glue” that holds them together. In other words, it is the interactions, relationships and the conduct of officials between governmental activities. It seeks the achievement of common goals through mutual relationships between and across vertical and horizontal governmental arrangements, alignment and cohesion across all spheres of government. The aim of intergovernmental relations therefore, is to enable governmental activities (primarily service delivery), through synergy, efficiency and effectiveness in delivering services, to sustain consumer protection and strengthen delivery capacity across all spheres of government for the common good.</p>
	<p>Product Safety and Labelling: Adoption suitable National/ International standards on product</p>	<p>Strengthen enforcement of Product Safety provisions in different Laws Enhance consumer awareness on good</p>	<p>Conduct risk assessment of Product Safety Issues Encourage networking and</p>

	safety	practices that are available in different countries	stakeholder engagement for working on product safety issues Conduct Research and Development on Product Safety and Labelling
	<p>Phone, Internet Services & E-Commerce:</p> <ul style="list-style-type: none"> • Enacting specific laws for regulating electronic transactions in terms of their fairness and efficiency • Develop, implement and evaluate consumer protection policies on phone and Internet services & E-commerce 	<ul style="list-style-type: none"> • Implement best practices in redress mechanisms for consumer protection on phone and Internet services & E-commerce 	Encourage ethical practices in E-commerce (e.g. unfair contract terms, billing practices and misleading advertising)
	<p>Consumer Credit and Banking:</p> <ul style="list-style-type: none"> • Develop, implement and evaluate consumer protection policies on consumer credit and banking 	<ul style="list-style-type: none"> • Monitor and enforce laws/codes of conduct and mandatory standards on consumer credit and banking • Conduct programmes on Financial literacy (e.g. managing finance and debt) • Implement best practices on access to consumer credit 	Establish of institutional structures on consumer credit and banking
	<p>Environment:</p> <ul style="list-style-type: none"> • Identify Ways and means of conducting Health Impact Assessment from a Consumers 	<ul style="list-style-type: none"> • Develop mechanism for environmental preferable products & environmental labelling • Develop, implement and evaluate consumer protection programmes on 	<ul style="list-style-type: none"> • Establish of institutional structures on environment and consumer protection

	perspective	environment	
	<p>Healthcare services:</p> <p>Develop, implement and evaluation of consumer protection policies on healthcare services (No False Medical Service Liability Law)</p>	<ul style="list-style-type: none"> Establish a redress system (handling complaints) on consumer protection with regard to environmental issues (e.g. helpline or hotline for reporting of environmental violations) Conduct Research & Development (R&D) on consumer protection and healthcare Services Promote Rational use of medicines and supplements Develop codes for Ethical marketing of drugs Networking and stakeholder engagement on healthcare services 	Promote Humanitarian health care system
	<p>Professional services:</p> <ul style="list-style-type: none"> Monitor and enforce laws/codes of conduct on professional services Training on Monitoring compliance of codes of conduct and ethical practices related to the legal and medical professionals 	<ul style="list-style-type: none"> Emulate Best practices in redress mechanisms 	<ul style="list-style-type: none"> Establishment of institutional structures for consumer protection Networking and stakeholder engagement on professional services
HUMAN RESOURCE DEVELOPMENT	Budgets should be allocated to employ personnel for law enforcement.	Allocation of expenses for continuous working activities of personnel in other organisations like the Office of the Attorney General, Royal Thai Police, Court of Justices, and private organisations or associations	Develop training and development guidelines for developing skills and increasing the efficacy of consumer protection agencies

PROGRAMMES FOR CORE CONSUMER AREAS	<ul style="list-style-type: none"> • Develop public and private mechanism for solving consumer protection problems. • Allocating fixed budgets for carrying out consumer protection programmes 	<ul style="list-style-type: none"> • Accelerating the work on consumer programmes by studying and analysing the structure and performance of different organisations involved in consumer protection 	<ul style="list-style-type: none"> • Increase the efficacy and quality of performance of personnel and the future trend of the organisation whether its size should be enlarged to achieve the goal or limited or decreased to fit necessity. The budget of such works can be used to support working activities of other public and private organisations instead.
CONSUMER EDUCATION AND AWARENESS	<p>Government should explore the possibilities on how to supplement consumer education as a life-long process among Thai consumers. This includes structuring to build knowledge in a cumulative fashion over time.</p>	<p>Consumer education should be disseminated in a variety of ways, taking advantage of both online and off-line resources.</p> <p>Strategies to maximize the effectiveness of online resources need to be developed and adapted as technologies evolve. Sites that draw together different elements of consumer education are important in this regard, as are social media (e.g. blogs).</p> <p>Developing effective strategies to attract consumers to these sites is also important.</p> <p>Identify examples of effective consumer education initiatives</p> <p>Set standards for consumer education work</p>	<p>Strategically deliver targeted effective education modules by increasing coordination among different stakeholders like Government Agencies, Consumer Organisations, CSOs and media to make best use of available resources.</p>

		<ul style="list-style-type: none"> • Develop new approaches to consumer education that recognise individual learning needs. 	
<p>CONSUMER NGO DEVELOPMENT/INDUSTRY</p>	<ul style="list-style-type: none"> • The government should concretely set a detailed plan of its support. The plan should include the amendment of laws and policies for national development. Besides this there should be support for the establishment of associations and the federation of private consumer protection associations. <p>Through collaboration with consumer organisations and accessing their expertise in strengthening the mechanism for consumer protection.</p>	<p>The government should set explicit regulations, terms and working procedures for associations to be funded, including the grant of rights to donors and financial support: for activities. The associations should be able to use their receipt of financial support to be deducted from personal income tax.</p>	<p>The government should act as the director and supporter rather than the controller or executor. The government should make consumers feel that consumer protection is not the direct duty or welfare of the government because this can make people lose interest in creating associations to protect their rights.</p>
<p>CONSUMER REDRESS</p>	<ul style="list-style-type: none"> • Develop user-friendly complaint processes that allow consumers to lodge complaints via multiple routes—telephone, in-person, in writing, through email etc. Ensure that the process is functionally accessible and eradicate features that cause customer dissatisfaction i.e., no costs, no difficulties getting through on complaint lines, informed staff to attend to the issues, no lengthy hold time, no complex menus, no long wait messages. Offer options to talk to someone at any point, 	<ul style="list-style-type: none"> • Organise a database enabling the consumers to retrieve the required information relating to complaints and procedures. Set up a mechanism to publish information, news including judgements, articles and related matters for the guidance of consumers. <p>Use Media (print, radio, and TV) more effectively to generate consumer awareness on consumer redress, as partners with other stakeholders, or through their own programmes.</p>	<p>There should be efforts to Increase Visibility: Consumers must be made aware on "where to complain", that is, the complaints handling must be highly visible.</p>

	<p>and provide additional support for consumers with special needs, such as in-person meetings for elderly, low-income, English-speaking consumers, and consumers with disabilities.</p> <ul style="list-style-type: none"> • Increase consumer's representation through promoting consumer organisations to advise and provide support to consumers at all levels of administrative structures. <p>Increase accessibility for consumers on "how to complain", that is, it must be relatively easy to lodge a complaint. Obviously toll free or local call fee facilities can give consumers access to appropriate complaint handling facilities within your agency. Accepting oral complaints gives consumers greater access to complaints handling, particularly those who have limited language skills.</p>		
IMPLEMENTATION OF INDUSTRY CODES OF CONDUCT	Develop Compliance monitoring mechanism	Monitor compliance through Surveillance, Inspections (on site), Investigations, Record reviews and Targeted information gathering should be done to see that practices/codes of conduct are consistent with regulations.	Conduct Periodical Review of Compliance monitoring mechanism to effect changes and strategise the system.

<p>WOMEN AND CONSUMER PROTECTION</p>	<ul style="list-style-type: none"> • Study and analyse women's role in consumer protection especially on role of women in advertising; health and Reproductive needs of women. • Enact Laws and regulations to protect women as consumers 	<ul style="list-style-type: none"> • Develop educational programmes for Education for women as consumers 	<ul style="list-style-type: none"> • Enforce Laws and Regulations <ul style="list-style-type: none"> o protect women as consumers
<p>PROTECTION OF CHILDREN AS CONSUMERS</p>	<p>Establish Specific Platform for addressing “CHILDREN AS CONSUMERS” at domestic and regional level</p> <p>Develop specific programmes or initiatives to address issues related to children being targeted for products or marketing or advertising</p> <p>Cigarettes, toys, junk food, fast food, pornography, communication services and technology</p>	<p>Adopt specific recognition in nationally and regionally on the rights of children as consumers</p>	<p>Develop New Health Policy to include specific provisions for children</p> <p>Enhance SR in industry</p> <p>Collaboration with experts for research on impact of products on children</p> <p>Develop ASEAN Code of Conduct for marketing to children</p>

5.2 PRIORITISATION OF STRATEGIES AND FOCUS AREAS

At present, there is a strong realization for the needs of consumer protection in Thailand due to the robust market integration and market competition domestically, regionally and internationally, as well as due to the more demanding and sophisticated consumer needs.

Table 5.2 summarises the recommendations on strategies for further enhancement of CP in Thailand. In tandem with these recommendations, the Thai's ACCP delegates²⁵ identified five immediate focus areas to be considered for capacity building on consumer protection at the ACCP Workshop (2010). These five areas are (in the order of priority):

- Enforcement through establishing a an Independent Consumer Organisation as an advisory body to advise and strengthen CP in Thailand (Short Term)
- Strengthening the Coordination among different agencies that are working on consumer related areas (Medium Term)
- Development of Consumer Protection Policy of Thailand (Short Term)
- Development of Consumer Master Plan (Medium Term)
- Enhancing knowledge on Core Consumer Areas through educational initiatives and programmes

Table 5.2: Recommended Strategies for strengthening Consumer Protection

Strategies	Implementation
Enforcing laws/ codes of conducts that protect consumers Time Line: Short to medium term	Establishing Independent Organisation for Consumer Protection in Thailand; Developing comprehensive Consumer Complaints Management system as a single window system for creating a uniform preventive measure. <ul style="list-style-type: none"> • Strengthening the transparency of market surveillance and enforcement investigations • Strengthening market monitoring, in particular the evidence base to identify markets where enforcement actions may be necessary • Stepping up international cooperation - through agreements with enforcement authorities in respective countries
Developing consumer organisations (government linked agencies, NGOs, independent) Time Line: Medium to Long term	Through collaboration with consumer organisations and accessing their expertise in strengthening the mechanism for consumer protection.

²⁵ Identified during the ACCP Workshop on 30 November – 1 December 2010 in Kuala Lumpur, Malaysia.

Table 5.2: Recommended Strategies for strengthening Consumer Protection. *(continued)*

Strategies	Implementation
Monitoring compliance to laws/codes of conduct Time Line: Short to medium term	Compliance monitoring through Surveillance, Inspections (on site), Investigations, Record reviews and Targeted information gathering should be done to see that practices/codes of conduct are consistent with regulations.
Information technology management Time Line: Medium to Long term	The explicit use of information technology (IT) to enable threshold improvements in addressing consumer concerns should be made possible to emerge as a serious objective for integrated consumer protection in Thailand.
Strengthening coordination through among different agencies Time Line: Medium to Long term	<p>Intra-governmental co-operation among relevant organisations should be promoted. In particular, co-operation between education ministries and consumer affairs ministries is essential to strengthen consumer protection.</p> <p>Stakeholders should work together to determine how to share consumer education responsibilities in different areas, with a view towards exploiting synergies and avoiding redundancy.</p> <p>Promote an intergovernmental relation system to facilitative systems and relationships that enable the units of government to participate effectively and carry out mandates so that governmental goals are achieved. This includes executive mechanisms, coordinating mechanisms, cooperative agreements, judiciary and legislative mechanisms that all facilitate delivery by government machinery.</p> <p>Intergovernmental relations can thus be defined as the “glue” that holds them together. In other words, it is the interactions, relationships and the conduct of officials between governmental activities. It seeks the achievement of common goals through mutual relationships between and across vertical and horizontal governmental arrangements, alignment and cohesion across all spheres of government. The aim of intergovernmental relations therefore, is to enable governmental activities (primarily service delivery), through synergy, efficiency and effectiveness in delivering services, to sustain consumer protection and strengthen delivery capacity across all spheres of government for the common good.</p>

Under the capacity development in selected consumer areas, the Study found that there are many stakeholders that are directly involved in working in the selected areas. Listed below are the areas, identified stakeholders and capacity development needs.

Product Safety and Labelling

Identified Stakeholders:

- Ministry of Public Health: FDA
- Food Control Division of Food and Drug Administration (FDA)
- Thai Industrial Standards Institute (TISI)
- OCPB
- FFC

Identified areas (in the order of importance from short to long term) for capacity development:

- i) Adoption suitable National/ International standards on product safety
- ii) Strengthen enforcement of Product Safety provisions in different Laws
- iii) Enhance consumer awareness on good practices that are available in different countries
- iv) Conduct risk assessment of Product Safety Issues
- v) Encourage networking and stakeholder engagement for working on product safety issues
- vi) Conduct Research and Development on Product Safety and Labelling

Phone, Internet Services & E-Commerce

Identified Stakeholders:

- Ministry of Information and Communication Technology
- National Telecommunications Commission
- Telecommunication Consumer Protection Institute
- Thai E-Commerce Association
- FFC

Identified areas (in the order of importance from short to long term) for capacity development:

- i) Develop, implement and evaluate consumer protection policies on phone and Internet services & E-commerce
- ii) Implement best practices in redress mechanisms for consumer protection on phone and Internet services & E-commerce
- iii) Encourage ethical practices in E-commerce (e.g. unfair contract terms, billing practices and misleading advertising)
- iv) Provide technical assistance on consumer protection

Consumer Credit and Banking

Identified Stakeholders:

- Ministry of Finance
- Ministry of Commerce
- Thai Credit Bureau
- Department of Internal Trade

- Bank of Thailand
- Thai ombudsman
- OCPB
- FFC

Identified areas (in the order of importance from short to long term) for capacity development:

- i. Develop, implement and evaluate consumer protection policies on consumer credit and banking
- ii. Monitor and enforce laws/codes of conduct and mandatory standards on consumer credit and banking
- iii. Conduct programmes on Financial literacy (e.g. managing finance and debt)
- iv. Implement best practices on access to consumer credit
- v. Establish of institutional structures on consumer credit and banking

Environment

Identified Stakeholders:

- Ministry of Natural Resources and Environment
- Ecological Alert and Recovery Thailand (EARTH)
- FFC
- Office of Consumer Protection Board
- The National Health Commission Office (NHCO)

Areas of Concern in Thailand

- Energy and environment -- Access to energy
- Pollution Issues -- Dumping
- Climate change, Sustainable consumption on energy, Public transport
- Health Impact Assessment (HIA) and Environment Impact Assessment (EIA)

Identified areas (in the order of importance from short to long term) for capacity development:

- i) Identify Ways and means of conducting Health Impact Assessment from a Consumers perspective
- ii) Develop mechanism for environmental preferable products & environmental labelling
- iii) Develop, implement and evaluate consumer protection programmes on environment
- iv) Establish a redress system (handling complaints) on consumer protection with regard to environmental issues (e.g. helpline or hotline for reporting of environmental violations)
- v) Establish of institutional structures on environment and consumer protection

Healthcare services

Identified Stakeholders:

- Ministry of Public Health
- Health Consumers Protection Project
- Thailand Medical Council
- FFC

- The National Health Commission Office (NHCO)

Areas of Concern

- Accessibility of Affordable Medicine
- Liberalisation of health care services
- Service negligence by medical professionals
- Medical services (cost / service quality) under different government supporting health insurance system

Identified areas (in the order of importance from short to long term) for capacity development:

- i) Develop, implement and evaluation of consumer protection policies on healthcare services (No False Medical Service Liability Law)
- ii) Research & Development (R&D) on consumer protection and health care Services
- iii) Rational use of medicines and supplements
- iv) Ethical marketing of drugs
- v) Networking and stakeholder engagement on healthcare services
- vi) Humanitarian health care system

Professional services

Identified Stakeholders:

- Ministry of Justice
- Ministry of Public Health
- Law Society of Thailand
- Thailand Medical Council

Areas of Concern

- Lack of consumers representation in disciplinary committees
- Weak coordination among professional services authority(s), national consumer protection authority and consumer organisations

Identified areas (in the order of importance from short to long term) for capacity development:

- i) Monitoring and enforcement of laws/codes of conduct on professional services
- ii) Training on Monitoring compliance of codes of conduct and ethical practices related to the legal and medical professionals
- iii) Training on Best practices in redress mechanisms
- iv) Establishment of institutional structures for consumer protection
- v) Networking and stakeholder engagement on professional services

Emerging Consumer Areas

As a part of the Research, the stakeholders that were involved observed that Consumer Protection mechanisms at the National level and the ASEAN level should focus on:

Children as Consumers

Establish Specific Platform for addressing “CHILDREN AS CONSUMERS” at domestic and regional level

- Develop specific programmes or initiatives to address issues related to children being targeted for products or marketing or advertising
- Cigarettes, toys, junk food, fast food, pornography, communication services and technology
- Adopt specific recognition in nationally and regionally on the rights of children as consumers
- New Health Policy to include specific provisions for children
- Enhance SR in industry
- Collaboration with experts for research on impact of products on children
- Develop ASEAN Code of Conduct for marketing to children

Women as Consumers

- Women's role in consumer protection
- Role of women in advertising and their roles
- Health and Reproductive needs of women
- Education to women as consumers
- Laws and regulations to protect women as consumers

Others

- Healthcare systems at the National and Regional Levels
- Mechanism for cross-border product safety
- Trade negotiation among ASEAN countries with developing countries on the issues of trade on Tobacco and alcohol drink, and IPR (Intellectual Properties Rights protection)

6. CONCLUSION

For a thriving market economy, business-consumer organisation relationship needs to be developed with mutual respect and within a conducive environment to nurture market, economic and social development with much enhanced capacity.

This study presents an overview on consumer protection environment in the Kingdom of Thailand. It is clear that Thailand is committed to addressing consumer protection concerns to meet the new challenges to consumer protection raised by new and emerging areas like e-commerce, cross-border transactions or others. As B2C transactions increasingly cross national borders, it will become more important to establish mechanism to enhance cross-border cooperation among consumer protection agencies, including through broader information sharing and greater authority to take action to minimise cross-border misconduct and obtain redress on behalf of consumers. It may also involve seeking ways to overcome legal barriers to the recognition and enforcement of civil remedies across different jurisdictions, as well as encouraging the development of self-regulatory mechanisms and alternative dispute resolution across the ASEAN region. Further to the above, the consumer protection in Thailand could be strengthened by the following measures:

- Establishing Independent Organisation for Consumer Protection in Thailand;
- Strengthening Intra-governmental co-operation among relevant organisations. In particular, co-operation between education ministries and consumer affairs ministries to strengthen consumer protection.
- Developing comprehensive Consumer Complaints Management system as a single window system for creating a uniform preventive measure.
- Strengthening the transparency of market surveillance and enforcement investigations
- Strengthening market monitoring, in particular the evidence base to identify markets where enforcement actions may be necessary
- Stepping up international cooperation - though agreements with enforcement authorities in respective countries especially at the regional Level in ASEAN
- Through collaboration with consumer organisations and accessing their expertise in strengthening the mechanism for consumer protection at the grassroots level.
- Compliance monitoring through Surveillance, Inspections (on site), Investigations, Record reviews and targeted information gathering should be done to see that practices/codes of conduct are in consistent with regulations.
- The explicit use of information technology (IT) to enable threshold improvements in addressing consumer concerns to emerge as a serious objective for integrated consumer protection in Thailand.
- Working with different stakeholders to determine how to share consumer education responsibilities in different areas, with a view towards exploiting synergies and avoiding redundancy.
- Promoting an intergovernmental relation system that consists of facilitative systems and relationships that enable the units of government to participate effectively and carry out mandates so those governmental goals are achieved. This includes executive mechanisms, coordinating mechanisms, cooperative agreements, judiciary and legislative mechanisms that all facilitate delivery by government machinery.

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A: Appendix 1 List of Stakeholders

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Thai Retailer Association 100/9 Rama 9 Road Huaikhwang Bangkok 10310 Thailand, Phone: 662 6450422 Fax: 662 6450421	Telecommunication Consumer Protection Institute The National Telecommunications Commission 87 Phaholyotin Road Soi 8 Phayatai Bangkok 10400 Phone: +66 (0) 2271-0151 Fax: +66 (0) 2271-3516
Office of the Insurance Commission 22/79 Ratchadapisek Rd. 10900 Copyrights Road, Chatuchak, Bangkok 10900 Phone: +662-2515-3999 Fax +662-2515-3970	Food & Drug Administration of Thailand Ministry of Public Health, Royal Thai Government Tiwanont Road Tambon Talatkhwan Amphoe Muang, Nonthaburi Phone: +66 0-2590-7416
Office of the Judiciary www.coj.go.th	Ecological Alert and Recovery-Thailand (EARTH) 211/2 Ngamwongwan Rd., Soi 31 Muang, Nonthaburi 11000, THAILAND Phone: +66 2 952 5061 Fax: +66 2 952 5062

B: Appendix 2

Key Informants Interviews Program

KEY INFORMANT INTERVIEW (KII) QUESTIONS

Guidelines for discussion with Key Informants

Note: The questions below are not prescriptive; they are guidelines for a discussion to elicit information in addition to what has been obtained from the general questionnaire. Not all questions will be relevant for all Key Informants. The interviewer should exercise discretion in deciding which of the questions are relevant for a specific Key Informant.

Ice breaking questions

- A1 Please introduce yourself and where you are from etc.
- Please share with us about the work of your organisation/division/department/unit and who are your target audiences etc.?
- A2 Please elaborate further about the functions of your /division/department/unit in relation to consumer protection issues.
- A3 In general, what kind of activities and programs has your /division/department/unit conducted/implemented related to consumer protection?
- A4 Share with us some strategies you have used in implementing these programs and activities.

• Sharing and discussion on preliminary findings of the general survey in each country

B1 Power point presentation by interviewer (CI KL)

B2 Potential questions:

- Do these findings reflect the actual situation of consumer protection in your country?

Some leading questions- e.g. How well are the policies implemented? Is there a centralised, nationwide mechanism for compiling and analysing consumer complaints (in the seven aspects of consumer protection that is being reviewed)? How are newly emerging issues in consumer protection identified? Does anyone conduct research into this area? Can you describe any redress mechanisms available for consumers (in the seven aspects of consumer protection that is being reviewed) and Are there any specific issues relating to women (in the seven aspects of consumer protection that is being reviewed)? How are they being addressed?

- B3 Potential questions for the seven consumer protection areas (as in the general survey):
- Environment;
 - Product safety and labelling;
 - Healthcare and medical services;
 - Consumer credit and banking;
 - Phone, internet services and E-commerce;
 - Professional services (legal and medical)
- B4 Try to elicit the reasons for the absence of policies and/or laws related to the relevant areas.

Refer to questions from the general survey questionnaire for each specific area relevant to the Key Informant. (Please see attachment)

• **Best practices (following the question A3)**

- C1 To your knowledge, have the activities/programs conducted by your /division/department/unit achieved their goals and objectives?
- C2 What are the key success factors (benchmarks) of these activities/programs?
- C3 Please suggest some strategies/frameworks that can be used to improve consumer protection activities and programs.
- C4 Do you have examples of programs/activities that can be replicated?
- C5 Have you received any form of recognition for your programs and activities?

• **Capacity Building Needs for Consumer Protection**

- D1 From your perspective, do you have adequate staff for work on consumer related issues in your department/division/unit? Please elaborate.
- Do you have problems in getting good staff?
- Competent staff
 - High turnover
- D2 What are your organisation's challenges in managing and sustaining staff who are dealing with consumer protection areas? Please explain.
- D3 What are other challenges faced by your /division/department/unit in implementing consumer protection activities and programs?
- D4 Has your organisation/division/department/unit fully utilized the 2009 budget allocation for consumer awareness and education?

- D5 Do you have a strategic plan for human resource development in your organisation/division/department/unit?

Attachment

Questions from the general survey questionnaire for each specific area relevant to the Key Informant

Specific questions for Key Informants in Environment:

1. Does the national environmental policy include Sustainable Consumption and Sustainable Production Describe how?
2. Does the environmental policy focus on green issues (such as conservation)?
3. Are there regulations/ codes of conduct in place for:
 - Waste management
 - Environmental labelling
 - Organic products
 - Greenhouse gas reduction/carbon emission claims
 - Water quality and energy efficiency
 - Air quality
4. Please describe how they have been implemented and what impact they have had on consumer protection
5. Is there a national authority/body(s) that oversees consumer protection in environmental issues such as water, energy, air or waste?
6. Are women involved in the development and implementation of environmental policies?
7. Is there a redress mechanism in place to address complaints relating to breaches/violations of environmental consumer services?
8. How good is the cooperation between the environmental authority and NGOs on consumer protection? Explain
9. Are there specific programs aimed at educating consumers on major environmental issues affecting them and how their buying decision and consumption patterns impact on the environment?

Specific questions for Key Informants in product safety and labelling:

1. What are relevant laws on product safety and liability?
2. Are there laws prohibiting false and misleading product labelling?
3. Is labelling of products in relation to their characteristics, weight, and price required by law?
4. Is there a national standards authority/body that develops standards for product quality and safety?

5. Are there product safety standards available for adoption and implementation in manufacturing and provision of goods and services?
6. Are standards made mandatory for product safety?
7. Is there a code of conduct in place with regards to health and safety of consumers implemented by manufacturers/distributors?
8. Has the government taken steps to prohibit entry into national markets of products banned elsewhere?
9. Is accredited product testing facilities available in your country? (e.g. for fresh and preserved food, vegetables and fruits, toys)
10. Is there a national rapid alert system in place to restrict dangerous consumer products that pose a serious risk to the health and safety of consumers?
11. Is there a mechanism in place to issue warnings on unsafe products in the market?
12. Are there measures to ensure that unsafe products are recalled from the market within a reasonable time period?
13. Are there mechanisms in place for an in-depth risk assessment of:
 - New technologies use in food (e.g. GMO, pro-biotics)
 - Unsafe chemicals on consumer products

Specific questions for Key Informants healthcare and medical services:

1. Is there a policy in place to ensure affordable and quality healthcare?
2. Is there a national drug policy to regulate drugs and ensure safety, quality and efficacy of drugs?
3. Are there laws prohibiting false and misleading healthcare and medical advertisements?
4. Are there mechanisms in place to ensure healthcare institutions comply with minimum quality and safety standards for medical equipment and facilities?
5. Is there a patient's charter in place for consumer protection (e.g. right to information, right to get second opinion)
6. Is there a national health financing scheme? (e.g. national health insurance)
7. Do all persons in your country, irrespective of citizenship, have access to free/subsidized public healthcare?
8. Are there measures in place in your country on ethical marketing of drugs by pharmaceutical companies?
9. Are there mechanisms in place to prevent illegal importation/smuggling of pharmaceutical products into your country

Specific questions for Key Informants in consumer credit and banking:

1. What are the relevant laws on consumer credit and banking in relation to: Hire purchase
2. Does the government place a limit on interest rates charged by lending institution to consumers?
3. Are there measures in place to notify/inform consumers on the basis on fees and charges?
4. Do debt collection agencies of the banks use reasonable methods to recover loans?

5. Are there measures to restrict sharing of credit data amongst credit providers through credit reference agencies?
6. Are there restrictions limiting entry of foreign banks?
7. Are there regulations and safeguards on personal data protection?
8. Does your country have a financial debt counselling agency to support consumers in addressing financial difficulties/debts?
9. Are there laws prohibiting false and misleading advertisements on consumer credit and banking?

Specific questions for Key Informants in Phone and internet services, and E-commerce:

1. What are the relevant laws in place dealing with:
 - Phone and internet services?
 - E-commerce?
2. Are there laws prohibiting false and misleading advertisements on phone and Internet services, and E-commerce?
3. Are there laws in place to protect consumers in relation to online transactions? (e.g. online scams, security of personal data)
4. Are there laws regulating internet content (censorship, firewall)?
5. Are there laws in place to protect security and prevent misuse of phone and internet services (e.g. cyber crimes, phishing, hacking, security of electronic payments, email and SMS spamming)
6. Are there regulations on phone and internet services and E-commerce covering:

Specific questions for Key Informants in professional services (medical and legal):

1. Are there laws governing the conduct of professional services medicine and law?
2. Are there measures for foreign medical professionals located abroad to provide services cross-border to patients in your country?
3. Are consumers represented in developing policies on conduct of Medical and Legal professional services?
4. Are there restrictions in recognizing professional qualifications in medical and legal services?
5. Are there restrictions limiting entry of: foreign medical and legal professionals?
6. Is there a registration and licensing procedure for foreign medical and legal professionals?
7. Are there restrictions on advertising for medical and legal professional services?
8. Are there legal provisions regulating/setting medical and legal professional fees?

KII – Questions

A. Laws (Consumer Protection)

1. Is it challenging for your agency to recruit/get staff, who are able to:
 - Draft Consumer Protection Laws;
 - Enforce them; and
 - Undertake awareness programs on Consumer Protection related laws

(Only for countries who have a principal Consumer Protection law)

1. If reviews of Consumer Protection laws have been done periodically, what were the areas reviewed and why?
2. Were the reviews done with internal expertise or with the assistance of external consultants?
3. Would you be able to assist ASEAN members who do not have a principal Consumer Protection Act e.g. in area of training etc?

B. Policies / Development Plans

1. What are the strategies for Consumer Protection in your National Development Plans?
2. If answer is NO ----- What is holding back your country from including consumer protection in your development plans?
3. Action Plans for Consumer Protection
4. What kind of capacity building does your country need to implement action plans for consumer protection policies?

Redress Mechanisms

1. Do you think the existing consumer redress mechanisms are necessary?
2. If yes, what are the best practices in your country's redress mechanisms?
3. If No, what can be done to improve the redress mechanisms?
4. What would you need to achieve this? (response to question iii above)

Enforcement

1. What are the challenges you face in enforcing Consumer Protection laws and regulations?
2. If you need to strengthen your Enforcement Agency, what do you need? (e.g. Human Resources, expertise, budget, training and etc).

Product Safety

1. Why does dumping of products happen?
2. Why is it difficult to stop dumping of dangerous/hazardous products? Why does it occur? Some reasons e.g. :
3. Consumer demand for cheap poor quality goods?
4. Weak laws related to product safety?
5. Insufficient personnel?
6. Lack of capacity to check/carry out inspection?
7. Lack of standards?
8. What are the weaknesses at points of entry?
9. Is there lack of collaboration within countries e.g. information sharing on dangerous and hazardous products?

E-Commerce

1. Misuse of Data
2. What are the challenges faced by consumers in your country in this area?
3. What is the awareness for redress in e-commerce transactions?
4. Are there programs to bridge the Digital Divide?

Banking and Finance

1. Do you think the financial services industry is sufficiently regulated to protect consumers (in your country)? Or
2. Are consumer protection practices of financial institutions adequately regulated? (e.g. measures to prevent predatory lending, illegal collection practices etc.)
3. Are consumers satisfied with compliance and dispute handling mechanisms?
4. Over-debt is a serious consumer problem worldwide. What measures have been taken to help consumers who have serious financial problems? (e.g. Debt management/counselling agencies, best practices?)
5. Are there financial literacy programs for consumers?
6. Provide some examples of best practices that promote transparency, redress and financial education for consumers.
7. Are consumers included in policy dialogue related to financial institutions? Is there a level playing field?

Thank you

C: Appendix 3

ROUNDTABLE DISCUSSION PROGRAMME

I. Preparation of background materials

- i. Circulate draft preliminary findings of the general survey for the relevant countries.
- ii. Circulate information obtained from the secondary data questions.

II. Agenda

- i. Presentation by facilitator on the objectives of the roundtable discussions.
- ii. Presentation by facilitator on the preliminary findings of the general survey and KII.
- iii. Q&A session.
- iv. If necessary, questions related to relevant consumer protection issues will be asked.
- v. Synthesize
- vi. Evaluation
- vii. Checklist

Background

The Project is aimed at assessing and prioritizing areas related to the needs for capacity building in consumer protection in Thailand, and in all ASEAN Member States (AMSs) at the regional level. The road-map is planned through necessary steps, strategies and recommendations to enable Thailand and AMSs to work towards realizing and developing effective region-wide consumer redress systems and enforcement activities in protecting consumers and their rights in ASEAN market as envisioned through the concept of “One Vision, One Identity, One Community”. In addition, the Project will support the efforts to fulfil the promises of providing ASEAN consumers with greater choice of products at competitive prices under the ASEAN Free Trade Agreement (AFTA).

Objectives:

The Roundtable Discussion is conducted with selected stakeholders in Thailand having specific interests in Consumer Protection to:

- Share the key findings of general survey and key informant interviews
- Invite comments, inputs and recommendations from the stakeholders as a validation step, aiming at strengthening the validity, reliability and ownership of data and information collected.

ROUNDTABLE DISCUSSION PROGRAM

8:30 – 9:00 am	Registration
9:00 – 10:00 am	<p>Opening Address</p> <p>Roadmapping Capacity Building Needs on Consumer Protection in ASEAN region</p> <ul style="list-style-type: none"> • The Project • Methodology & Stakeholders • Analysis of Results • Findings (overall roadmap, Where? How?, focus areas, Implementation plans for capacity building) • Discussions / Q&A
10:00 – 10:30 am	Tea Break
10:30 – 11:30 am	<p>Capacity Building Needs on Consumer Protection & Sectoral Impact in [COUNTRY]</p> <p>Short presentation for specific areas. Feedback and discussions from relevant stakeholders</p> <ul style="list-style-type: none"> • Product Safety and Labelling • Consumer credit and banking • Phone & internet services, and E-commerce • Health care services • Environment • Professional services • Other emerging needs
11:30 am – 12:30 pm	The Way Forward: Conclusions and Reaffirmation of Study's Findings

D: Appendix 4

List of Relevant Laws for Consumer Protection

Consumer Protection

- Consumer Protection Act (CPA) of 1979

Product Safety and Labelling

- Cosmetic Act 1974 (B.E. 2517)
- Cosmetics Act 1992 (B.E. 2535).
- Industrial Product Standards Act B.E.2511 (1968),
- The Food Act B.E. 2522 (1979)
- The Unsafe Product Liability Act (2008)

Phone & Internet Services and E-Commerce

- Computer Crime Act B.E. 2550 (2007)
- Electronics Transaction Act of 2001 & 2nd version 2008.
- Telecommunication Business Act of 2001

Consumer credit and Banking

- Commercial Banking Act of 1962 and its revision of 1979
- Credit Information Business Act B.E. 2545 (2002)
- Money Laundering Control Act (1999)
- The Act on the Undertaking of Finance Business, Securities Business, and Credit Foncier Business B.E. 2522 (1979)

Environmental Quality and Services

- Factories Act B.E. 2535 (1992)
- Hazardous Substances Act B.E. 2535 (1992)
- National Environmental Quality Act B.E. 2535 (1992)
- Public Health Act B.E. 2535 (1992)
- The Constitution of 2007

Health care Quality and Services

- Control Tobacco Product Control Act
- Cosmetic Act 1974 (B.E. 2517)
- Cosmetics Act 1992 (B.E. 2535).
- Drugs Act (2003)
- Food Act B.E. 2522 (1979)
- Industrial Product Standards Act B.E.2511 (1968),
- Narcotics Act 1979
- National Health Act of 2007
- Non-Smoker Right' Protect Act
- Unsafe Product Liability Act (2008)

Professional Services

- Lawyer's Act of 1985
- Lawyers Council Act 1985
- Medical Profession Act 1982
- Medical Registration Act 1999
- Nursing and Midwifery Professional Act B.E. 2528

Other Laws

- Act Countering Market Dumping and Subsidy of Goods from Abroad B.E. 2542 (1999)
- Act Governing Prices of Goods and Services B.E. 2542 (1999)
- Casualty Insurance Act B.E. 2535 (1992)
- Child Protection Act 2003
- Direct Selling and Direct Marketing Act of 2002
- Insurance Commission Act B.E. 2550 (2007)
- Life Insurance Act B.E. 2535 (1992)
- Motor Accident Victims Protection Act B.E. 2535 (1992).
- Trade Competition Act of 1999
- Unfair Contract Terms Act (1997)
- Weights and Measures Act (1999)

Redress Mechanisms

- Consumer Case Procedure Act of 2008
- Consumer Protection Act B.E. 2522 (1979)

E: Appendix 5

List of Implementing Agencies for Consumer Laws

Principal Consumer Protection Law

- The Office of Consumer Protection Board

Product Safety and Labelling

- The Thai Food and Drugs Administration (FDA)
- Thai Industrial Standards Institute (TISI)
- National Bureau of Agricultural Commodity and Food Standards (ACFS)
- Ministry of Public Health
- Ministry of Agriculture

Phone & Internet Services and E-Commerce

- The National Telecommunication Commission (NTC)
- Ministry of Information and Communication Technology

Consumer Credit and Banking

- Ministry of Finance
- Bank of Thailand

Environmental Quality and Services

- Ministry of Science, Technology and Environment (MOSTE)

Health and Healthcare Services

- Ministry of Public Health
- National Agency for Drug and Food Control

Medical Professionals

- Ministry of Public Health

Legal Professionals

- Ministry of Justice

F: Appendix 6
CONSUMER LAW MATRIX
 Based upon Consumer International's Eight Consumer Rights
 On
Consumer Protection Act 1979

A	THE RIGHT TO SAFETY	YES	NO
Protect consumers from products or services which are dangerous or unsafe, or whose use might cause injury to others, by:			
1	establishing a general duty of safety upon suppliers	√	
2	banning the supply of unsafe goods;	√	
3	prescribing safety and information standards with which goods or services must comply;	√	
4	establishing procedures to examine products and services alleged to be unsafe	√	
5	monitoring the market place for unsafe goods and services;	√	
6	warning consumers of the possible risks involved in the use of certain goods or services	√	
Ensure that information about unsafe products and services is collected and made available to consumers, by:			
7	establishing procedures to collect and disseminate information on particular goods and services identified as being unsafe	√	
8	establishing procedures for the notification to authorities by consumers of alleged hazardous goods and services; and	√	
9	requiring suppliers who become aware that their goods or services are unsafe to advertise any dangers	√	
Ensure that dangerous products are recalled from suppliers, by:			
10	requiring any manufacturer who recalls goods for safety reasons to notify relevant authorities of the recall;	√	
11	establishing procedures for the monitoring of voluntary recalls to ensure they are effective;		√
12	allowing relevant authorities to order a manufacturer to recall goods, and to specify how those goods are to be recalled; and	√	
13	giving relevant authorities power to investigate the actions of manufacturers to determine whether they have complied with laws relating to recalls	√	

B	THE RIGHT TO BE INFORMED	YES	NO
Require all necessary information to be given to consumers about the goods and services they acquire, especially in relation to therapeutic goods and toxic products, by:			
1	requiring appropriate statements and warnings to accompany toxic products;	√	
2	regulating the supply of therapeutic goods and toxic products to ensure information is disclosed in a manner consistent with international best practice;	√	
3	establishing procedures to monitor national and international developments relating to therapeutic goods and toxic products; and	√	
4	prescribing mandatory information standards to require particular information to be disclosed about particular goods not otherwise regulated	√	
Ensure consumers are able to compare different products, by:			
5	prohibiting deceptive packaging; and	√	
6	requiring packages to clearly identify their contents	√	
7	requiring packages to clearly identify their price	√	
Protect consumers from conduct which is false or misleading, by:			
7	prohibiting conduct, in relation to the supply of goods or services to a consumer, that is misleading or deceptive, or likely to mislead or deceive, or which is unfair	√	
8	prohibiting representations about goods or manufacturers and suppliers which are not true or which could mislead consumers; and	√	
9	prohibiting any particular sales or marketing practices which act to the detriment of consumers	√	
10	require all necessary information to be given to consumers about food and drinks in order to enable them to make informed decisions regarding health and nutrition	√	
11	ensure that necessary information about goods and services is required to be accurate and comprehensible	√	
C	THE RIGHT TO CHOOSE	YES	NO
Encourage consumers to acquire only the things they need, by:			
1	establishing procedures for community and consumer education about products	√	
Protect consumers from anti-competitive conduct and exploitation, by:			
2	ensuring manufacturers and suppliers do not abuse their powers; and	√	
3	giving consumers rights to obtain redress for goods which are unsafe, unsuitable, defective or of poor quality	√	

4	protect consumers by ensuring effective trade measurement practices and standards are adopted and enforced	√	
5	prohibit direct sales and marketing practices without appropriate 'cooling off' periods		√
D	THE RIGHT TO BE HEARD	YES	NO
Ensure consumers can participate in the development of policies which affect them, including giving consumer representatives access to the media, by:			
1	requiring administrative and political bodies responsible for matters affecting consumers to include members representing consumers;	√	
2	requiring laws and policies which affect consumers to be publicised before they are introduced to allow consumers to comment on them; and	√	
3	establishing procedures to channel any comments or complaints made by consumers to appropriate authorities, and to monitor the response to those comments or complaints	√	
4	facilitate the establishment of complaints handling systems in both the government and non-government sectors, including the involvement of consumer representatives in the process	√	
5	ensure consumers have standing to take action in courts and tribunals, including as third parties, to protect consumer interests	√	
6	enable consumers to take collective action before courts and tribunals	√	
7	enable indigent consumers to enforce their rights by providing access to legal and financial assistance	√	
E	THE RIGHT TO REDRESS	YES	NO
Provide consumers with cost-effective, speedy and accessible means to enforce their legal rights, by:			
1	establishing a court or tribunal, with a simple procedure, to hear consumer complaints;	√	
2	prescribing procedures to ensure consumers know their rights and how to enforce them, particularly in relation to disadvantaged groups	√	
3	ensuring that consumers are allowed to play an equal role in the resolution of their disputes; and	√	
4	providing consumers with effective remedies and reasonable compensation if their complaints are found to be justified	√	

5	provide consumers with a right to compensation if they are injured as a result of unsafe goods or faulty services	√	
Provide a mechanism through which consumers can channel their complaints and grievances to government, by:			
6	establishing mechanisms to collect and register consumer complaints and grievances;	√	
7	prescribing procedures to investigate complaints; and	√	
8	prescribing procedures to monitor the number of complaints and grievances, and to report any results back to the consumer	√	
Ensure that consumers are properly compensated for any loss suffered if their consumer rights are contravened, by:			
9	ensuring any court or tribunal can provide a consumer with an appropriate remedy if it is established that the consumer's rights have been contravened	√	
10	protect consumers from intimidation or harassment if they seek to enforce their rights	√	
Establish effective post-sale consumer protection, by:			
11	implying into contracts for the supply of goods and services, non-excludable warranties governing acceptable quality, fitness for known purpose, and, in relation to services, that they are rendered with due care and skill	√	
F	THE RIGHT TO CONSUMER EDUCATION	YES	NO
1	Consumer law should be written in language which can be easily understood	√	
Establish procedures which ensure consumers are informed about their consumer rights, particularly consumers with special needs, by:			
2	prescribing mechanisms to monitor consumer awareness and use of their rights; and		√
3	introducing laws to protect particular groups with special needs as required		√
4	set in place mechanisms to inform consumers about how to enforce their rights	√	
5	ensure consumers are aware of their consumer responsibilities		√
G	THE RIGHT TO A HEALTHY ENVIRONMENT	YES	NO
Protect consumers from pollution of the environment, by:			
1	promoting the use of products which are environmentally friendly;	√	

2	encouraging recycling of consumer goods; and		√
3	requiring environmentally dangerous products to carry appropriate warnings and instructions for the safe use and disposal of the product	√	
Promote the use of non-toxic products where available, by:			
4	promoting consumer awareness of safer alternatives to toxic products;	√	
5	establishing procedures to monitor international developments and ensure products which are banned overseas do not find their way into national markets	√	
6	ensure the social costs of pollution are minimised		√
7	encourage the promotion of ethical and socially responsible practices by the producers and suppliers of goods and services		√
H	THE RIGHT TO THE SATISFACTION OF BASIC NEEDS	YES	NO
Consumer laws should promote the provision of information to consumers about products and substances which may adversely affect them, by:			
1	requiring therapeutic goods to carry information about safety, efficacy, and side effects; and	√	
2	requiring any products containing hazardous substances to clearly list all its ingredients and to display appropriate warnings	√	
3	protect consumers from unethical, unconscionable, and illegal practices especially in the supply or provision of: health care; housing and accommodation; education; water; energy; financial services; employment; retirement services; children's services; insurance; investment services; and food.	√	
Protect the privacy of consumers, by:			
4	ensuring telecommunications and other communications are secure from unauthorised interference and are not used to provide or promote unsolicited commercial communications;	√	
5	ensuring personal information about consumers is used only for the purposes for which it is collected and with their knowledge and approval; and	√	
6	ensuring that consumers have the right to access, amend and correct their personal information held by government or non-government entities	√	

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G. Appendix 7: Consumer Protection Act

Consumer Protection Act, B.E. 2522 (1979) [1]²⁶

BHUMIBOL ADULYADEJ, REX.

Given on the 30th Day of April B.E. 2522;

Being the 34th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that: Whereas it is expedient to have a law on consumer protection; be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly acting as the National Assembly, as follows:

Section 1.

This Act is called the "Consumer Protection Act, B.E. 2522 (1979)".

Section 2.

This Act shall come into force as from the day following the date of its publication in the Government Gazette.

Section 3.

In this Act:

"**purchase**" includes hire, hire-purchase or procure by whatever means, for which monetary consideration or other value is demanded, and also includes offer or invitation to do as aforesaid;

"**goods**" means articles produced or possessed for sale;

"**service**" means an undertaking to accomplish a work, grant of any right or permission to use or conferring benefit in any property or business, for which monetary consideration or other value is demanded, excluding hire of services under the labour laws;

"**produce**" means manufacture, mix, prepare, assemble, invent or denature, and includes transform, modify, select or divide for repackaging;

"**consumer**" means a person who buys or obtains services from a businessman or a person who has been offered or invited by a businessman to purchase goods or obtain services and includes a person who duly uses goods or obtains services from a businessman even though he or she is not a person who pays the remuneration therefore;

"**businessman**" means a seller, manufacturer or importer of goods for sale, or purchaser of goods for re-sale, person who renders services, and includes a person who operates the advertising business;

"**statement**" includes an act expressed in the form of letters, pictures, cinematographic film, light, sound, sign, or any act enabling the public to understand its meaning;

"**advertisement**" includes any act which, by whatever means, causes the statement to be seen or known by an ordinary person for trading purposes;

"**advertising media**" means a thing used as advertising media, such as newspaper, printed matter, radio, television, post and telegram, telephone or sign board;

"**label**" means a picture, design, paper or any other thing causing the statement relating to goods to appear on the goods, or container or package of goods, or inserted in or put together with the goods or container or package of goods, and includes a document or hand-book on usage, or tag attached to or displayed on the goods or container or package of such goods;

"**contract**" means an agreement between a consumer and a businessman for purchasing and selling

²⁶ The Consumer Protection Act B.E.2522 (1979) and its amendment B.E. 2541 (1998)

goods or providing and obtaining services;

"**Board**" means the Consumer Protection Board;

"**member**" means a member of the Consumer Protection Board;

"competent official" means a person appointed by the Minister for the execution of this Act;

"**Minister**" means the Minister having charge and control of the execution of this Act.

Section 4.

The consumer has the following rights of protection:

(1) the right to receive correct and sufficient information and description as to the quality of goods or services;

(2) the right to enjoy freedom in the choice of goods or services;

(3) the right to expect safety in the use of goods or services;

(3 bis) the right to a fair contract;

(4) the right to have the injury considered and compensated in accordance with the laws on such matters or with the provisions of this Act.

Section 5.

In the performance of duties under this Act, the competent official shall have the following powers:

(1) to count, weigh, measure, inspect and collect or take free of charges, goods in reasonable quantities as samples for testing, subject to the rules prescribed by the Board;

(2) to search, seize or attach goods, container or package of goods, label or other documents which do not conform with this Act for the purpose of instituting legal proceedings in the case where there is a reason to suspect that an offence under this Act has been committed;

(3) to enter any premises or vehicle in order to inspect the manufacture of goods, sale of goods or services, as well as to examine books of account, related documents and equipment of a businessman in the case where there is a reason to suspect that an offence under this Act has been committed;

(4) to issue a summons to any person to give statement or submit necessary document and evidences for supplementing the consideration of the competent official.

In the performance of duties under paragraph one, the competent official shall be provided with reasonable facilities by the person concerned.

Section 6.

In the performance of duties under section 5 (3), which is not urgent, the competent official shall, by a written notice, give the owner or occupier of the premises or vehicle a reasonable time in advance and acts must be done in the presence of the owner or occupier of the premises or vehicle or, if he or she is not present, in the presence of at least two other persons whom the competent official has asked to act as witnesses.

The search under section 5 (2) shall be carried out by the competent official only during sunrise and sunset.

Section 7.

In the performance of duties under this Act, the competent official must produce his or her identity card at the request of the person concerned.

The identity card of a competent official shall be in the form prescribed in the Ministerial Regulation.

Section 8.

The Prime Minister shall have charge and control of the execution of this Act and shall have the power to appoint competent officials and issue Ministerial Regulations for the execution of this Act.

Such Ministerial Regulations shall come into force upon their publication in the Government Gazette.

CHAPTER I - Consumer Protection Board

Section 9.

There shall be a Board called the "Consumer Protection Board" consisting of the Prime Minister as Chairman, Secretary-General to the Prime Minister, Permanent Secretary for the Office of the Prime Minister, Permanent Secretary for Agriculture and Cooperatives, Permanent Secretary for Commerce, Permanent Secretary for Interior, Permanent Secretary for Industry, Permanent Secretary for Transport, Secretary-General of the Food and Drug Administration, and not more than eight qualified persons appointed by the Council of Ministers as members, and the Secretary-General of the Consumer Protection Board shall be member and secretary.

Section 10.

The Board shall have the following powers and duties:

- (1) to consider the complaints from the consumers who suffer hardship or injury resulting from the acts of the businessmen;
- (2) to proceed with the goods which may be harmful to the consumers under section 36;
- (3) to issue or publicise information concerning goods or services which may cause damage to or be prejudicial to the rights of the consumers and for this purpose, the names of such goods or services or the name of the businessman may be specifically mentioned;
- (4) to give recommendations and advice to the ad hoc committees, and consider and determine appeals against the orders of the ad hoc committees and sub- committees;
- (5) to lay down rules concerning the performance of duties of the ad hoc committees and sub- committees;
- (6) to scrutinize and expedite the execution of powers and duties of the competent officials, government offices of other state agencies in accordance with the laws as well as to expedite the legal proceedings by the competent officials for the offences regarding the infringement of the consumer's rights;
- (7) to institute legal proceedings regarding the infringement of the consumer's rights as the Board thinks fit or when there is a request under section 39;
- (8) to recognise an association under section 40;
- (9) to submit opinion to the Council of Ministers concerning the policy and measure for the protection of the consumers, and consider and give opinion in any matter regarding the consumer protection as entrusted by the Council of Ministers or Minister;
- (10) to do any other act as prescribed by laws to be the function of the Board.

In the performance of duties under this section, the Board may entrust the Office of the Consumer Protection Board to carry out or prepare proposals to be submitted to the Board for consideration.

Section 11.

A member appointed by the Council of Ministers shall hold office for a term of two years. An outgoing member may be re-appointed.

Section 12.

Apart from vacating office at the expiration of the term under section 11, a member appointed by the Council of Ministers vacates office upon

- (1) death
- (2) resignation
- (3) being removed by the Council of Ministers
- (4) being a bankrupt
- (5) being an incompetent or quasi-incompetent person

(6) being imprisoned by a final judgment to a term of imprisonment, except for an offence committed through negligence or petty offence.

In the case where a member vacates office before the expiration of his or her term, the Council of Ministers may appoint another person to replace him or her, and the appointee shall hold office for the remaining term of the member he or she replaces.

In the case where the Council of Ministers appoints an additional member during the term of the appointed members, the appointee shall hold office for the remaining term of the members already appointed.

Section 13.

At a meeting of the Board, if the Chairman does not attend or is not present at the meeting, the members present shall elect one among themselves to preside over the meeting.

At every meeting of the Board, the presence of not less than one-half of the total number of members is required to constitute a quorum.

The decision of the meeting shall be by majority of votes. Each member shall have one vote. In case of an equality of votes, the person presiding over the meeting shall have an additional vote as the casting vote.

Section 14.

There shall be ad hoc committees as follows:

- (1) the committee on advertisement
- (2) the committee on labels
- (3) the committee on contract

An ad hoc committee shall consist of not less than seven but not more than thirteen members qualified in the relevant fields appointed by the Board. A member of an ad hoc committee shall hold office for a term of two years and section 11 paragraph two and section 12 shall apply mutatis mutandis.

An ad hoc committee has the power and duty as prescribed in this Act and as entrusted by the Board.

Section 15.

The Board and the ad hoc committees may appoint a sub- committee to consider or carry out any matter as entrusted by the Board or the ad hoc committees.

Section 16.

In the meeting of an ad hoc committee and of a sub-committee, section 13 shall apply mutatis mutandis.

Section 17.

The Board and the ad hoc committees have the power to order any person to submit documents or particulars in connection with the subject- matter of complaints or other matters in connection with the protection of the consumer's rights for consideration. For this purpose, the person concerned may be summoned to give an explanation.

Section 18.

In the performance of duties under this Act, the Board or the ad hoc committees shall provide reasonable opportunity for the person accused or suspected of having committed an act infringing the

consumer's rights to submit representation and express opinion except in the case of necessity or urgency.

In the stipulation or issue of order on any matter under this Act, the Board or the ad hoc committees shall give due regard to the damage which may be caused to both the consumer and the businessman; and in the case where it is deemed reasonable, the Board or the ad hoc committees may stipulate provisional conditions or procedures for the enforcement thereof.

Section 19.

There shall be established an Office of the Consumer Protection Board attached to the Office of the Prime Minister.

There shall be the Secretary-General of the Consumer Protection Board having the powers and duties to supervise and control in general and being responsible for the performance of official duties of the Office of the Consumer Protection Board and there may be the Deputy Secretary-General and Assistant Secretary-General to assist in the administration of the affairs of the office.

Section 20.

The Office of the Consumer Protection Board shall have the following powers and duties:

- (1) to receive complaints from the consumers who suffer hardship or injury resulting from the acts of the businessman for further submission to the Board;
- (2) to follow up and scrutinize actions of the businessman who may do any things infringing the consumer's rights, and arrange for testing or verifying any goods or services as it thinks proper for the protection of the consumer's rights;
- (3) to encourage or conduct the study and research on the problems concerning the consumer protection with other academic institutions and other agencies;
- (4) to promote and encourage the providing of education for the consumers at all levels on safety and harm from the goods or services;
- (5) to propagate technical information and provide educational information to consumers in order to instil the consumption habit which promotes health, is economical and maximizes the utilization of natural resources;
- (6) to co-operate with the government offices or state agencies which have the power and duty to control, promote or prescribe the standard of goods or services;
- (7) to do any other acts as entrusted by the Board or the ad hoc committees.

CHAPTER II - Consumer Protection

Section 21.

In the case where any law has specifically provided for any matter, such matter shall be subject to the provisions of such law, and the provisions of this Act shall apply only insofar as it is not a repetition or contrary to such provisions, unless:

- (1) in case of necessity for the benefit of the consumers as a whole, if it appears that the competent official under such law has still not proceeded or has not completed the proceeding thereof in accordance with the law concerned and has not issued orders relating to consumer protection in accordance with such law within ninety days from the date of the receipt of written notice from the ad hoc committees or the Board, the ad hoc committees or the Board shall submit the matter to the Prime Minister for issuing orders in accordance with the provisions of this Chapter;
- (2) in the case under (1), if it is urgent and necessary to be proceeded without delay, the ad hoc committees or the Board shall submit the matter to the Prime Minister for considering and issuing orders in accordance with the provisions of this Chapter without having to notify in writing or waiting until the period of ninety days in accordance with the conditions in (1) has elapsed.

In the case where such law does not contain any provisions empowering the competent official to issue orders for the consumer protection as provided in this Chapter, the ad hoc committees shall have the power to issue orders in accordance with the provisions of this Chapter, except in the case where such law has provided for a competent official, the Board may delegate the power to the competent official under such law to exercise it on behalf of the ad hoc committee.

The delegation of power to the competent official under the law on such matter under paragraph two shall be published in the Government Gazette.

Part 1 Consumer Protection against Advertising

Section 22.

An advertisement may not contain a statement which is unfair to consumers or which may cause adverse effect to the society as a whole; that is, notwithstanding such statement concerns with the origin, condition, quality or description of goods or services as well as the delivery, procurement or use of goods or services.

The following statements shall be regarded as those which are unfair to consumers or may cause adverse effect to the society as a whole:

- (1) statement which is false or exaggerated;
- (2) statement which will cause misunderstanding in the essential elements concerning goods or services, notwithstanding it is based on or refers to any technical report, statistics or anything which is false or exaggerated;
- (3) statement which is directly or indirectly encouraging the commission of an unlawful or immoral act or which adversely affects the national culture;
- (4) statement which will cause disunity or adversely affects the unity among the public;
- (5) other statements as prescribed in the Ministerial Regulation.

A statement used in the advertisement which an ordinary person knows that it is not possible to be true, is not prohibited for use in the advertisement under (1).

Section 23.

An advertisement shall not be effected by a method which may be harmful to health, or cause physical or mental harm or annoyance to consumers; that is, as prescribed in the Ministerial Regulation.

Section 24.

In the case where the Committee on Advertisement is of the opinion that any goods may be harmful to consumers and the Committee on Labels had declared such goods to be label-controlled goods, the Committee on Advertisement shall have the power to issue the following orders:

- (1) prescribing that the advertisement must be made together with the advice on or warning about the usage or harmful effect in accordance with the conditions prescribed by the Committee on Advertisements; provided that the Committee on Advertisement may prescribe different conditions for the same advertisement made by different advertising media;
- (2) restricting the use of advertising media for such goods;
- (3) prohibiting the advertisement of such goods.

The provisions of (2) and (3) shall also apply to the advertisement which the Committee on Advertisement is of the opinion that the use or utility of such goods is contrary to the social, moral or cultural policy of the nation.

Section 25.

In the case where the Committee on Advertisement is of the opinion that, with respect to any goods or service, it is necessary for the consumers to know the facts concerning the status and other details regarding the businessman, the Committee on Advertisement shall have the power to prescribe that the

advertisement of such goods or service shall also disclose such facts as prescribed by the Committee on Advertisement.

Section 26.

In the case where the Committee on Advertisement is of the opinion that the consumers should be informed that a statement which is used in any advertising media is for advertising purpose, the Committee on Advertisement has the power to prescribe that the advertisement through such advertising media must be accompanied by the explanation to that effect so that the public may be informed that such statement is for advertisement. For this purpose, the Committee on Advertisement may prescribe any condition for the compliance therewith.

Section 27.

In the case where the Committee on Advertisement is of the opinion that any advertisement violates section 22, section 23, section 24 (1) or section 25, the Committee on Advertisement shall have the power to issue one or several of the following orders:

- (1) to rectify the statement or method of advertisement;
- (2) to prohibit the use of certain statements as appeared in the advertisement;
- (3) to prohibit the advertisement or the use of such method for advertisement;
- (4) to correct by advertisement the possible misunderstanding of the consumers in accordance with the rules and procedure prescribed by the Committee on Advertisement.

In issuing an order under (4), the Committee on Advertisement shall prescribe the rules and procedure by having regard to the interest of the consumers and to the bona fide act of the advertiser.

Section 28.

In the case where the Committee on Advertisement has a reasonable cause to suspect that any statement used in an advertisement is false or exaggerated under section 22 paragraph two (1), the Committee on Advertisement shall have the power to issue an order requiring the advertiser to substantiate the claim. In the case where the advertiser refers to any technical report, research result, statistics, certification from any other institution or person or asserts any fact in the advertisement, if the advertiser cannot substantiate the statement used in the advertisement as so referred, the Committee on Advertisement shall have the power to issue an order under section 27 and it shall be taken that the advertiser knows or ought to know that such statement is false.

Section 29.

Any businessman who is doubtful whether his or her advertisement will violate or does not conform to this Act may apply to the Committee on Advertisement for consideration and opinion on such matter before advertising. In this case, the Committee on Advertisement shall give opinion and notify the applicant within thirty days from the date the Committee on Advertisement receives the application; or it shall be deemed that the Committee on Advertisement has given its approval thereto.

The application for opinions and the fees for giving opinions shall be in accordance with the rules prescribed by the Committee on Advertisement. The fees so received shall be remitted to the Treasury as the state revenue.

The giving of opinion by the Committee on Advertisement under paragraph one shall not be deemed to curtail the power of the Committee on Advertisement to review the matter when there is a reasonable cause.

Any act done pursuant to the opinion of the Committee on Advertisement under paragraph one shall not be deemed a criminal offence.

Part 2 Consumer Protection against Labelling

Section 30.

Goods which are manufactured for sale by the factories under the law on factories and goods which are ordered or imported for sale in the Kingdom shall be label-controlled goods.

The provision of paragraph one shall not apply to the goods prescribed by the Committee on Labels by publishing in the Government Gazette.

In the case where it appears that goods which may be harmful to health or cause physical or mental harm because of the use or the nature of such goods or the goods regularly used by the public and the requirement of labels for such goods will be beneficial to the consumers so that they may be aware of the material facts concerning such goods but such goods is not a label-controlled goods under paragraph one, the Committee on Labels shall have the power to declare such goods to be a label-controlled goods by publishing in the Government Gazette.

Section 31.

The label of a label-controlled goods shall be of the following descriptions:

(1) it shall contain truthful statements and have no other statements which may induce misunderstanding as to the material facts concerning such goods;

(2) it shall contain the following statements:

(a) the name or trademark of the manufacturer or the importer for sale, as the case may be;

(b) the place of manufacturing or the place of operating import business, as the case may be;

(c) the statements which indicate what the goods are; in the case of imported goods, the name of the manufacturing country shall be specified;

(3) it shall contain necessary statements such as price, quantity, usage, recommendation, caution and an expiry date in the case of goods which may be expired or in other cases to protect the consumers.

The businessman who is the manufacturer or importer for sale of a label-controlled goods, as the case may be, shall prepare the label of such goods before the sale thereof and such label shall contain statements under paragraph one. In this regard, the statements in (2) and (3) of paragraph one shall be made in accordance with the rules and procedure prescribed by the Committee on Labels by publishing in the Government Gazette.

Section 32.

The businessman shall not be compelled to disclose confidential matters of production as a result of the prescription of a statement of a label under section 30 unless such statement is necessary to the health, hygiene and safety of the consumers.

Section 33.

When the Committee on Labels is of the opinion that any label does not conform to section 31, the Committee has the power to order the businessman to cease using such label or to rectify such label.

Section 34.

Any businessman who is doubtful whether his label will violate or does not conform to section 31 may apply to the Committee on Labels for consideration and opinion on such label. In such case, section 29 shall apply mutatis mutandis.

Section 35.

For the purpose of supervision and inspection of the operation of business concerning the label-

controlled goods, the Minister has the power to publish in the Government Gazette a notification requiring the businessman producing such goods to have and keep accounts, documents and evidences for the inspection of the competent official.

The method of keeping accounts, documents and evidences under paragraph one shall be prescribed in the Ministerial Regulation.

Part 2 bis Consumer Protection on Contract Section 35 bis. In any business in connection with the sale of any goods or the provision of any service, if such contract of sale or contract of service is required by law or tradition to be made in writing, the Committee on Contract shall have the power to declare such business a contract-controlled business.

A contract between a businessman and the consumers in the contract- controlled business shall be of the following descriptions:

(1) it shall contain the necessary contract terms without which the consumers would be unreasonably disadvantageous

(2) it shall not contain the contract terms which are unfair to the consumers.

Provided that, it shall be in accordance with the rules, conditions and particulars prescribed by the Committee on Contract, and for the benefit of the consumers as a whole, the Committee on Contract may require a businessman to prepare a contract in accordance with the form prescribed by the Committee on Contract.

The prescription under paragraph one and two shall be in accordance with the rules and procedure prescribed by the Royal Decree.

Section 35 ter.

When the Committee on Contract prescribed that any contract of a contract-controlled business must contain any contract term or contain any contract term subject to a condition under section 35 bis, if such contract does not contain such contract term or otherwise not being under such condition, such contract shall be deemed to contain such contract term or contain such contract terms under such condition, as the case may be.

Section 35 quarter.

When the Committee on Contract prescribes that any contract of a contract-controlled business shall not contain any contract term under section 35 bis, if such contract contains such contract term, it shall be deemed that such contract term does not exist.

Section 35 quinque.

The Committee on Contract shall have the power to declare any business in connection with the sale of goods or the provision of services a receipt-controlled business.

The receipt of payment of the receipt-controlled business shall be of the following descriptions:

(1) it shall contain particulars and necessary statements without which the consumers would be unreasonably disadvantageous;

(2) it shall not contain any statement which is unfair to the consumers.

That is, it shall be in accordance with the rules, conditions and particulars prescribed by the Committee on Contract.

The prescription under paragraph one and paragraph two shall be in accordance with the rules and procedure prescribed by the Royal Decree.

Section 35 sex.

When the Committee on Contract prescribes that the receipt of payment of a receipt-controlled business must contain any statement or contain any statement subject to any condition or must not contain any statement under section 35 quinqué, the provisions of section 35 ter and section 35 quarter shall apply to such receipt of payment *mutatis mutandis*.

Section 35 septem.

In the case where a businessman sells any goods or provides any service with a promise to provide a guarantee contract for the consumer, such guarantee contract shall be made in writing, signed by the businessman or his agent and delivered to the consumer together with the goods or the provision of services.

If the contract under paragraph one is made in foreign language, the Thai translation shall be attached thereto.

Section 35 octo.

The businessman shall have a duty to deliver the contract containing contract terms or containing contract terms in the correct form in accordance with section 35 bis or deliver the receipt of payment containing correct particulars and statements in accordance with section 35 quinqué to the consumer within the period of normal course of operation of such type of business or within the period prescribed by the Committee on Contract by publishing in the Government Gazette, whichever period precedes.

Section 35 novem.

Any businessman who is doubtful as to whether his contract form or form of the receipt of payment may violate or fail to comply with this Act may request the Committee on Contract to give a prior opinion on such form.

In this regard, the provisions of section 29 shall apply *mutatis mutandis*.

Part 3 Other Types of Consumer Protection

Section 36.

When there is a reasonable cause to suspect that any goods may be harmful to the consumers, the Board may order the businessman to have such goods tested or verified. If the businessman does not proceed to test or verify the goods or delays in so doing without justification, the Board may arrange for the verification at the expenses of the businessman.

If the result of the test or verification appears to be that the goods may be harmful to the consumers and the harm which may be caused by the goods cannot be prevented by means of the requirement of the label under section 30 or under any other law, the Board shall have the power to prohibit the sale of such goods and, if it thinks fit, may order the businessman to modify the goods in accordance with the conditions prescribed by the Board. In the case where the goods cannot be modified or it is doubtful as to whether the businessman would keep the goods for sale, the Board shall have the power to order the businessman to destroy the goods or arrange for the destruction thereof at the expenses of the businessman.

In case of necessity and urgency, if the Board has reason to believe that any goods may be harmful to the consumers, the Board shall have the power to prohibit the sale of such goods for the time being until the test or verification under paragraph one or paragraph two has been carried out.

The prohibition of sale of goods under paragraph two and paragraph three shall be published in the Government Gazette.

Section 37. (Repealed)

Section 38. (Repealed)**Section 39.**

In the case where the Board thinks fit to institute legal proceedings in the infringement of the consumer's rights or upon receipt of complaints from the consumers whose rights were infringed and the Board is of the opinion that the institution of such legal proceedings will be beneficial to the consumers as a whole, the Board has the power to appoint a public prosecutor with the approval of the Director-General of the Department of Public Prosecution or an official in the Office of the Consumer Protection Board whose qualification is not below the Bachelor of Laws degree the consumer protection official having the duty to institute civil and criminal proceedings in the court against the persons infringing the consumer's rights, and when the Board has notified the Ministry of Justice in order to inform the court of the matters, the consumer protection official shall then have the power to institute legal proceedings as entrusted by the Board.

In the legal proceedings in the court, the consumer protection official shall also have the power to claim property or damages for the complainant and, for this purpose, all the costs will be exempted.

Section 40.

Any association which has as its object the protection of consumers or opposition against unfair trade competition and whose regulations with respect to the board, members and methods of operation of the association are in accordance with the conditions prescribed in the Ministerial Regulation, may file the application to the Board for its recognition so that the association has the right and power to institute legal proceedings under section 41.

The filing of the application under paragraph one shall be in accordance with the rules and procedure prescribed in the Ministerial Regulation.

Section 41.

In the legal proceedings for infringement of the consumer's rights, the association which has been recognized by the Board under section 40 has the right to institute civil and criminal proceedings or bring any legal proceedings for the protection of the consumers and shall have the power to sue for the recovery of damages on behalf of its member if it has obtained the power of attorney to claim damages from its member.

In the legal proceedings under paragraph one; the association shall not withdraw the action without the approval of the court unless the court is of the opinion that such withdrawal will not adversely affect the protection of consumers as a whole in the civil cases for the recovery of damages on behalf of a member of the association. The withdrawal of the case or passing of judgment in the case where the parties agree or compromise may be made only with the written consent of the empowering member presented to the court.

Section 42.

Apart from complying with the provisions of the Civil and Commercial Code and of the other laws, the association recognised by the Board under section 40 shall comply with the rules prescribed by the Board.

When it appears that any association recognised by the Board under section 40 fails to comply with the rules prescribed by the Board or when the circumstances arise to make it appear that such association mala fide proceeds to institute legal proceedings in the court, the Board shall have the power to revoke the recognition of that association.

The revocation of recognition of any association under this section shall be published in the Government Gazette.

In the case where the association the recognition of which is revoked under this Act has instituted any legal proceedings in the court and the case is still in sub judice, the Court shall order the disposition of such case.

CHAPTER III - Appeal

Section 43.

In the case where a person is not satisfied with the order issued by an ad hoc committee under section 27 or section 28 paragraph two, he or she shall have the right to appeal to the Board.

Section 44.

The appeal under section 43 shall be filed with the Board within ten days from the date the appellant is aware of the order of the ad hoc committee.

The rules and procedure for filing the appeal and the procedure for determining the appeal shall be prescribed in the Ministerial Regulation.

The appeal against an order under paragraph one does not stay the execution of the order of the ad hoc committee, unless the ad hoc committee has issued a temporary order to the contrary before the appeal is decided.

The decision of the Board shall be final.

CHAPTER IV - Penalties

Section 45.

Any person who obstructs or fails to render facilities or submit representation or deliver documents or evidences to the competent official who is performing the duties under section 5 shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding ten thousand Baht or to both.

Section 46.

Any person who fails to comply with an order of the Board or the ad hoc committee under section 17 shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding ten thousand Baht or to both.

Section 47.

Any person who, with an intent to cause misunderstanding as to the origin, condition, quality, quantity or other substantial matters concerning goods or services, whether they belong to him or her or other persons, advertises or uses a label containing a statement which is false or known or should be known to cause the misunderstanding, shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding fifty thousand Baht or to both.

If the offender under paragraph one commits the same offence for the second time, the offender shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding one hundred thousand Baht or to both.

Section 48.

Any person who advertises by using a statement under section 22 (3) or (4) or a statement prescribed in the Ministerial Regulation issued under section 22 (5) or violates or fails to comply

with section 23, section 24, section 25 or section 26, shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding thirty thousand Baht or to both.

Section 49.

Any person who fails to comply with the order of the Committee on Advertisement issued under section 27 or section 28 paragraph two shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding fifty thousand Baht or to both.

Section 50.

If an act under section 47, section 48 or section 59 is done by the owner of an advertising media or the advertising businessman, the offender shall be liable to one-half of the penalty provided for that offence.

Section 51.

If the offence under section 47, section 48, section 49 or section 50 is a continual offence, the offender shall be liable to a fine not exceeding ten thousand Baht a day or not exceeding double the advertising expenses throughout the period of the violation or non-compliance.

Section 52.

Any person who sells the label-controlled goods under section 30 without having labels displayed thereon or having labels incorrectly displayed thereon or sells goods bearing labels which the Committee on Labels has prohibited the use thereof under section 33, knows or ought to have known that the non-display of label or the display of such label is contrary to the law, shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding fifty thousand Baht or to both.

If the act under paragraph one is committed by a manufacturer or importer for sale, the offender shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding one hundred thousand Baht or to both.

Section 53.

Any businessman who fails to comply with the order of the Committee on Labels issued under section 33 shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding fifty thousand Baht or to both.

Section 54. Any person who agrees in return for remuneration to produce labels which do not conform to the law or to attach labels which do not conform to the law to any goods and knows or ought to have known that such labels do not conform to the law shall be liable to a fine not exceeding twenty thousand Baht.

Section 55.

Any businessman who fails to comply with the Ministerial Regulations issued under section 35 shall be liable to a fine not exceeding ten thousand Baht.

Section 56.

Any businessman who sells goods which the Board has prohibited to sell under section 36 because they may be harmful to consumers shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding fifty thousand Baht or to both.

If the businessman is the manufacturer or importer for sale, he or she shall be liable to imprisonment for a term not exceeding five years or to a fine not exceeding five hundred

thousand Baht or to both.

Section 57.

Any businessman who fails to deliver the contract containing contract terms or containing contract terms in the correct form in accordance with section 35 bis or fails to deliver the receipt of payment containing correct particulars and statements in accordance with section 35 quinque to the consumer within the period in accordance with section 35 octo shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding one hundred thousand Baht or to both.

Any businessman who delivers the receipt of payment containing the amount which is more than the amount actually paid by the consumer and having already received such payment shall be liable to imprisonment for a term not exceeding one month or to a fine of five hundred to ten thousand Baht or to both unless he or she can prove that he or she had exercised reasonable care in the operation of such business.

Section 57 bis.

Any businessman who violates or fails to comply with section 35 septem shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding one hundred thousand Baht or to both.

Section 58.

When a person commits an offence under this Act within the place of business of a businessman and the act was done in the interest of the businessman, it shall be presumed that the businessman is a joint offender unless he or she can prove that he or she cannot anticipate that such person will commit the offence although he or she has exercised reasonable care.

Section 59.

In the case where the offender who is liable to punishment under this Act is a juristic person, the director or manager or the person responsible for the operation of such juristic person shall be liable to the punishment imposed by law for such offence unless he or she can prove that he or she had no part in the commission of the offence by the juristic person.

Section 60.

Any person who, with dishonest intent, employs, hires, asks as favour, instigates or causes an association recognised by the Board under section 40 to institute civil or criminal proceedings against any businessman in the court in order to cause injury to the businessman, shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding fifty thousand Baht or to both.

Section 61.

Any person having or acquiring knowledge of any fact through performing the duties under this Act, discloses any fact concerning the affairs of the businessman which normally would be kept confidential by the businessman, shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding one hundred thousand Baht or to both unless the disclosure is made in the course of performing official duties or for the benefit of investigation or trial.

Any person having or acquiring knowledge of any fact from the person under paragraph one through performing the official duties or investigation or trial, discloses such fact in the manner likely to cause injury to any person, shall be liable to the same penalty.

Section 62.

The Board shall have the power to settle all the offences under this Act and for this purpose, shall have the power to delegate the power to settle the case to an ad hoc committee, sub-committee, inquiry official or competent official under such rules or conditions as it thinks fit.

Subject to the provision of paragraph one, if an inquiry official discovers, in holding an inquiry, that any person who has committed an offence under this Act has agreed to have the case settled, the inquiry official shall submit the case to the Board or to the person entrusted by the Board to exercise the power to settle the case under paragraph one within seven days from the date such person agrees to have the case settled.

When the offender has paid his or her fine so fixed, the case shall be deemed to have been settled.

Countersigned by:

S. Hotrakitya Deputy Prime Minister