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PHASE II (AADCP II)

ROADMAPPING CAPACITY BUILDING NEEDS IN CONSUMER PROTECTION IN ASEAN

Consumers International

COUNTRY REPORT: INDONESIA (FINAL)

(Revised 3 June 2011)

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ABSTRACT

Indonesia is considered as one of the ASEAN countries that has well advanced Consumer Protection programs and initiatives. This report presents the outcomes of an assessment of the capacity building needs in Consumer Protection (CP) in Indonesia with specific focus on six selected consumer areas, contributing towards a regional framework. The research project addressed 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. A general survey questionnaire was successfully completed by 11 out of 20 selectively identified stakeholders including government and regulatory agencies, business sectors and non-government organization, with relevant interests and work on consumer protection and issues. Further validation process was performed through Key Informant Interviews involving 15 key informants and further 16 participants at a roundtable discussion. The findings suggested that Indonesia needs further advancement in its CP program implementation. In particular, more Consumer Dispute Settlement Board and systemized database management are needed to enhance the effectiveness of its complaint handling or redress mechanisms. Inadequate laws and financial resources or funding were suggested as some areas of difficulties that need to be addressed, apart from inadequate human resources with appropriate experience or qualifications; inadequate training opportunities and facilities; and limited coordination among relevant agencies or organizations. This report highlights human and institutional capacity gaps and recommendations for CP agencies and organizations in Indonesia, through a proposed national roadmap and best practices in consumer protection program.

Keywords: Consumer protection, capacity building, complaints, redress mechanisms, best practices, Indonesia.

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ABBREVIATIONS

AADCP II	ASEAN Australia Development Cooperation Program Phase II
ACCP	ASEAN Committee on Consumer Protection
ADR	Alternative Dispute Resolution
AKKI	Assosiasi Kartu Kredit Indonesia (Indonesia Credit Card Association)
AMSs	ASEAN Member States
AOC	Actual Operating Context
APRA	Australian Prudential Regulation Authority
ASEAN	Association of the Southeast Asian Nations
ASEC	ASEAN Secretariat
ATM	Automated Teller Machine
BI	Bank Indonesia
BPKN	Badan Perlindungan Konsumen Nasional
BSN	Badan Standardisasi Nasional (National Standardization Agency of Indonesia)
CCPID	Competition, Consumer Protection, and Intellectual Property Rights Division
CDSB	Consumer Dispute Settlement Body
CI	Consumers International
CIKL	Consumers International Kuala Lumpur
CP	Consumer Protection
CSBC	Commission for the Supervision of Business Competition
CSO	Civil Society Organizations
DCP	Directorate of Consumer Protection
EMV	Europay, MasterCard, Visa
FOC	Formal Operating Context
GDP	Gross Domestic Product
GS	General Survey
ICT	Information Communication Technology
ISP	Internet Service Provider
KAI	Kongress Advokat Indonesia (Congress of Indonesian Advocates)
KIIs	Key Informant Interviews
LPG	Liquid Petroleum Gas

MoF	Ministry of Finance
MTI	Ministry of Trade and Industry
NA	Not Available
NA-DFC	National Agency of Drug and Food Control
NCCP	National Commission for Child Protection
NCPA	National Consumer Protection Agency
NEDSBSP	National Environmental Dispute Settlement Service Provider
n.d.	Not dated
NFPCB	National Family Planning Coordinating Board
NHIS	National Health Information Systems
NGO	Non-government Organization
NPL	Non-performing loans
PERADI	Perhimpunan Advokat Indonesia (Indonesian Advocates Association)
PIS	Phone & Internet Services
RTD	Roundtable Discussion
Rp	Rupiah
SEACC	Southeast Asian Consumer Council
SNI	Standard Nasional Indonesia (Indonesian National Standard)
SMS	Short Message Service
WALHI	Wahana Lingkungan Hidup Indonesia
WHO	World Health Organization
WTO	World Trade Organization
YKP	Yayasan Kesehatan Perempuan
YLKI	Yayasan Lembaga Konsumen Indonesia

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EXECUTIVE SUMMARY

Indonesia, a member of ASEAN and WTO, is the largest Muslim nation in the world and one of the fastest growing economies in Asia with an average GDP growth rate of 5.1% per annum that is supported by a resilient domestic demand and economic reforms. Due to the importance its large consumer base generating positive domestic demand for its economic growth, strategic consumer protection agenda has been well established in the country since 1999, along the line with its market liberalization agenda. However in order to further develop consumer protection in Indonesia to the next level, specific capacity building programs for relevant stakeholders would help to provide consumers with better protection, not only nationally but also at the ASEAN level.

In general, in order to enhance consumer protection in Indonesia, the stakeholders have to overcome five major difficulties:

- Inadequate laws
- Lack of skilled staff in consumer protection
- Inadequate number of staff
- Inadequate finances
- Access to training

The Directorate of Consumer Empowerment requires capacity building assistance to

- review and amend the Consumer Protection Law in relation to decentralization of the establishment and management of the Consumer Dispute Settlement Body (CDSB) per year to be equipped with basic office, as well as qualified and experienced staff
- support the establishment of an average four CDSB per year to achieve around 400 CDSBs for serve the entire population
- support the development of non-government organizations to provide complementary effort to enhance consumer protection

The National Consumer Protection Agency (NCPA) requires capacity building assistance to

- Conduct policy study and review on the Consumer Protection with regards to some provisions related to goods and services, and the definition of “consumers”.
- Explore and learn from other best practices in consumer protection programs and models
- Strengthen program implementation capacity with relevant ministries in relation to recommendations that have been approved by the President.

More specific capacity building needs are suggested by the other stakeholders, such as assistance for the following objectives:

- Enhancing capacity to advocate for women’s rights as consumers (cosmetics, medical services)

- Improving access (location) for healthcare
- Developing program to certify the qualifications of health service providers (individuals, midwives) to women
- Training on consumer areas from suggested best practices such as:
 - Financial and Consumer credit (Australian CP Competition Agency, Australian Prudential Regulation Authority-APRA)
 - Nature of standardized contracts
 - product Safety (LPG-standards)

Concerns of consumers, as well human and institutional challenges related to product safety and labelling, phone & internet and E-commerce, consumer credit and banking, environment, healthcare services and professional services are also highlighted in this report. This report also presents prioritization areas for overall consumer protection enhancement plan and focus areas for capacity building for Indonesia and its relevant stakeholders.

1. INTRODUCTION

1.1. STUDY BACKGROUND

This country report, which complements a Regional Report, is part of the research titled '*Roadmapping Capacity Building in Consumer Protection in ASEAN*'. It is a project of the ASEAN Australia Development Cooperation Program Phase II (AADCP II), which aims to strengthen consumer protection in the region as well as in individual ASEAN Member States (AMSs). The major output of this research is a regional capacity building roadmap on consumer protection and supporting roadmaps for each of the AMSs. The roadmaps were based on the following information that were gathered and presented in this report:

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

The overarching framework of the study is primarily based on the UN Guidelines on Consumer Protection (1985), which has been further espoused and reiterated by Consumers International into 8 fundamental rights as follows:

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

The following key principles are also adhered to in the development of the national road map, contributing towards the regional framework:

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

Consumers International Kuala Lumpur (CIKL) Office carried out the study in cooperation with its members in the AMSs and partners, or appointed local focal points. In Indonesia, Yayasan Lembaga Konsumen Indonesia (YLKI) was appointed as the local focal point for the study.

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 KL office is CI's regional office for Asia Pacific and the Middle East.

Organization of Report

This report is organized into 6 Chapters. Chapter 1 provides general background on Indonesia 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 programs are presented in Chapter 3. Chapter 4 covers the assessment on the capacity building needs of the various stakeholders that took part in the project, and Chapter 5 presents some recommendations and the national Roadmap 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

Indonesia is multi-ethnic country with many languages and cultures, wide regional differences and fast changing political and economic circumstances. Almost 90% of Indonesians are Muslim, observing halal dietary laws. Demographically, modern lifestyles have been adopted comfortably by the urban consumers as well as cross the country. Indonesia, with a population of 242,968,342 (July 2010 est.)¹, is the world's fourth biggest nation and is a rich market. In 2008, Indonesia' Human Development Index was reported at 71.17, with Consumer Price Index and Inflation at 123.29 and 0.06, respectively in October 2010.² Indonesia's GDP (Purchasing Power Parity) in 2009 was reported at \$962.5 billion, with per capita GDP of \$4,000. Indonesia's economy is basically driven by 3 major sectors, namely industry 47.6%, services 37.1% and agriculture: 15.3%.

Indonesia is an archipelago country with a total of 17 000 islands, of which 6 000 are inhabited. Java Island, the most advanced and developed district, has 59% of Indonesia's population and a further 21% live on Sumatra. Bali accounts for just 1.5% of the total population. Due to its geography, Indonesia has its own unique management challenges in relation to information access, which can be expensive and difficult to distribute requiring much efforts and resources.

¹ CIA: The World Factbook. <https://www.cia.gov/library/publications/the-world-factbook/geos/id.html>

² Badan Pusat Statistik Republik Indonesia (Statistics Indonesia)

http://dds.bps.go.id/eng/tab_sub/view.php?tabel=1&daftar=1&id_subyek=03¬ab=3

1.3 CONSUMER PROTECTION IN INDONESIA

1.3.1 General Overview

The spending power of Indonesian consumers has been growing steadily over the past years. Consumer confidence on the economy has increased. In the capital city of Jakarta, it estimated that about 10 million people (1.2% of the population) belong to the affluent segment of consumers, having an average monthly household expenditure of US\$1,700 (15 million Rupiah).³ In general, based on income distribution, the population of Indonesia consists of three social economic classes⁴:

- 40 % of population with lowest income
- 40 % of population with moderate income
- 20 % of population with highest income

The Gini Index in Indonesia indicates that income inequality has reduced in gap. In 2006, Gini Index was reported at 39.4, and this had reduced to 37.58 in 2008.⁵

Retailing is a major industry that is strategically important to consumers in Indonesia. Apart from providing consumers direct access to products, it is also the second largest industry after agricultural industry in terms of employment absorption in Indonesia. As presented in Table 1.1, in 2009, consumers in Indonesia had almost an equal amount of spending on food and non-food items which are key items made available to consumers by the retailing industry.

Table 1.1: Percentage of Monthly Average per Capita Expenditure 2009

Expenditure	Percentage
Total of Food ⁶	50.62
Total of Non-Food ⁷	49.38

Source: Statistics Indonesia

Due to the robust consumption and spending trends in the country, together with its open economy, consumer protection has been an important element in the society. Thus, guarantee on the rights and obligations of consumer and entrepreneurs have been legally established through the Law of Republic of Indonesia No. 8 Year 1999 concerning consumer protection. In addition, trade security and consumer protection is also well integrated in the Indonesian

³ Reaching Indonesia's Affluent and Lucrative Consumer Segment. October 22, 2010
<http://blog.nielsen.com/nielsenwire/consumer/reaching-indonesias-affluent-and-lucrative-consumer-segment/>

⁴ Statistics Indonesia

⁵ Gini Index is a Standard economic measure of income inequality, based on Lorenz Curve. Units: Index, 0-100, higher numbers indicate greater inequality.
<http://www.tradingeconomics.com/indonesia/gini-index-wb-data.html>

⁶ Food includes alcoholic beverages and tobacco

⁷ Non-food includes housing and household facility, goods and services, clothing, footwear, and headgear, durable goods, Taxes and insurance, parties and ceremony

National Development Agenda Year 2004-2009⁸. According to the Research conducted in 2004 (6,873,294 households in the Metropolitan City of Jakarta), 60.4% of Indonesia's metropolitan consumers were well aware of their rights and obligations.⁹

Consumer protection is placed and developed under the Ministry of Trade and Industry (MTI), whose role includes:

- Develop and publish rules and regulation related to the Law of the Republic of Indonesia No. 8 (1999) on Consumer Protection;
- Facilitate the establishment of National Consumer Protection Agency (NCPA) and Consumer Dispute Settlement Body (CDSB);
- Provide guidance in the development of consumer organizations
- Empower consumers and suppliers through education and awareness on their rights and obligation;
- Increase access to consumer redress by facilitating the establishment of consumer's complaint unit;
- Handle individual complaints and disputes;
- Collect and disseminate information through media and other interactive activities;

The Directorate of Consumer Empowerment¹⁰ under the Ministry of Trade and Industry is primarily responsible for consumer protection in Indonesia. The Directorate comprises of four specific Sub-Directorates, which are:

1. Sub-directorate of Cooperation, Information and Publication
2. Sub-directorate of Analysis of Consumer Protection Implementation
3. Sub-directorate of Consumers and Business Guidance
4. Sub-directorate of Institutional Facilitation

Like other countries, consumers in Indonesia are also faced with a number of issues with regards to products and services. For the year 2009, Yayasan Lembaga Konsumen Indonesia (YLKI) reported that the five main complaints related to goods or products were

- Housing
- Electronics (such as audio visual equipments, mobile phones, computers, etc.)
- Household appliances
- Automotive
- Food

In terms of services, the main consumer complaints received in 2009 were related to:

⁸ Ministry of Trade (SEA Conference on Consumer Protection)

⁹ Ministry of Trade and Industry

¹⁰ Was formerly known as the Directorate of Consumer Protection, and renamed since September 2010. The change is also made in relation to the upgraded profile of the Directorate in the Organization Chart of the Ministry. http://www.depdag.go.id/bagan_organisasi/

- Banking
- Telecommunication
- Supply of water and electricity
- Insurance
- Transportation

Rural consumers in Indonesia are also confronted with some other issues, apart from the above, including:

- Access to clean water
- Waste management

As consumer protection is considered as one of the key areas in social development, there are many civil society organizations (CSOs) and government agencies adopt the protection of consumer rights as one of their functions (covered in Chapter 5). However, due to poor coordination and centralisation of complaints data and statistics, limited inferences and interpretation could be made from the relatively small number of complaints, which may not be well representing all sectors, products and services. The website of the Directorate of Consumer Protection¹¹, for example, listed some un-updated information since 2005 that showed Banking/Finance/ Cooperating Services having the most number of complaints (27 complaints) followed by Insurance Service (7) and Lottery (3) in 2005.

1.3.2 Product Safety and Labelling

Product safety is a challenging area where consumers in Indonesia can be effectively protected due to the large traditional market scene in country. As mentioned earlier, retailing is an important industry in Indonesia, which is mainly characterized by two main groups: the modern retailers (such as supermarkets and malls) and the traditional retailers (mainly stalls, peddlers, or individually owned small family businesses). Currently, there are various issues affecting safety of consumers. In particular, there is a special need to improve traditional retailers in terms of safety, security and health conditions of goods or food produced, where incidentally, food poisoning contributed to the most common type of consumer injuries,¹² which may be due to the limited awareness on clean, hygienic, and sanitary product or food preparation of the daily needed products by traditional market operators. Other challenges related to product safety and labelling are related to:

- Hazardous chemicals and/or heavy metals in products such as cosmetics
- Chemicals substances in traditional medicines
- Absence or lack of regulation in product labelling and standards conformity on other consumer products such as toys.
- Counterfeit/fake products (such as credit cards, medicines and other consumer goods, particular branded goods)

¹¹ Website: <http://pkditjenpdn.depdag.go.id/English/index.php?page=aduanbrw>

¹² Reported by YLKI

The National Agency of Drug and Food Control (NA-DFC)¹³ or locally known as Badan POM, is the authority for regulating, monitoring, standardization and certification of food and drugs in Indonesia. Public Warnings and Press Release, including Queuing List on Drug registration and registered products, are shared on its website. Apart from NA-DFC, the National Standardization Agency of Indonesia (BSN), which is a non-ministerial government institution, is responsible for the matters pertaining to standardization, including the development and promotion of other product safety standards in Indonesia. Pertaining to product safety and labelling, there are many national standards known as SNI (Indonesian National Standard) related to product safety and labelling that have been made mandatory including standards for some products such as:¹⁴

- Motorcycle Helmets;
- LPG Gas equipment¹⁵
- Food labelling
- Refined sugar
- Glass plates
- Fertilizers

SNI also helps in the efforts to curtail entry of products banned elsewhere or substandard products into the national markets. In addition, Technical Regulations have also been applied to 69 consumer products. Labelling of products currently only applies to contents and weight, and has not included prices. Codes of Conduct, is also not commonly promoted amongst the producers, manufacturers or service providers.

1.3.3 Phone & Internet Services and E-Commerce

In 2008, there were around 30 million internet users in Indonesia, with 30.378 million (2008) have access to telephones (land lines) and 140.578 million mobile phones.¹⁶ Mobile phones accounted for around 25% of consumer electronics spending in 2009. Indonesia's market handset sales are expected to grow at an average growth rate of 13% to 26.3mn units in 2014, as mobile subscriber penetration reaches 144%. On the other hand, computer hardware accounted for around 41% of Indonesia's consumer electronics spending in 2009, whereby home users would account for a growing share of demand, rising to above 60% by 2014.¹⁷

With the progression on deregulation measures in Indonesia's telecommunications policy as reflected in its commitments under the WTO Agreement on Basic Telecommunications (Rajan & Sen, 2002), there are currently forty six Internet Provider Service (ISP) licenses. About 35 ISPs

¹³ Website: http://www.pom.go.id/e_default.asp

¹⁴ BSN website <http://www.bsn.go.id/>; also see Foreign Market Access Report 2010 <http://gpj.mofcom.gov.cn/accessory/201004/1271302252304.pdf>, and http://www.puntofocal.gov.ar/formularios/registro_otc.php?lista=IDN

¹⁵ Related to increase cases of LPG gas tank (3 kg) explosions in households (BPKN Newsletter Edisi 1)

¹⁶ CIA. The World Factbook.

¹⁷ Indonesia Consumer Electronics Report Q4 2010. Business Monitor International. <http://www.prlog.org/10898009-recently-released-market-study-indonesia-consumer-electronics-report-q4-2010.html>

are in operation, which provides consumers with greater options and more choices of services and providers to choose from. To further encourage healthy development of the Information Communication Technology (ICT) sector, Indonesia also established the Information and Network Nusantara 21, which reflects Indonesia's vision of entering information era as an important part of the global community.

The main bodies involved in regulating phone and Internet services, and e-commerce in Indonesia are the Indonesian Telecommunications Regulatory Authority and the Ministry of Communications and Information Technology. Coordination among these two ICT regulatory authorities, national consumer protection authority and consumer organizations also exists through the formation of specific Task Force which is mainly issue-based, such as the Task Force on Advertisements Monitoring and the Task Force on Monitoring Telecommunication services.

Common consumer complaints associated with phone & internet services, and E-commerce in Indonesia includes:

- Premium SMSs¹⁸
- Misleading advertising
- Slow internet access (not as advertised/promoted)
- Undisclosed (auto) credit deductions
- Absence of Codes of Conduct for Telecommunication providers

1.3.4 Consumer Credit and Banking

The recent rise in consumer credit and non-performing loans related to credit cards and other forms of personal credits or loans amongst consumers worldwide, including in Indonesia, has been a disturbing trend for consumer organizations, governments and financial institutions to look into. Even though Indonesia is still mostly a cash-driven society, credit card transactions have been reported to grow steadily by around 45% in 2008 from 2007. According to the Indonesian Credit Card Issuer Association, Indonesia's total credit card transactions as of December 2009 reached about Rp 131 trillion with about 11.5 million cards circulating, indicating an increase of 23% from 2008.¹⁹ Non-performing loans (NPL) related to credit card sector had an average NPL ratio around 9% in 2009, compared to an average of 3.31% across the broader banking sector.

Apart from credit cards and banks, consumers in Indonesia also seek credits or loans from other sources such as credit without collaterals offered by non-bank financial institutions, loans from unlicensed money lenders and pawnshops.

¹⁸ refers to contents and advice services, usually sent by and sent to a fix 4-6 digit specialized service numbers (for example announcement of sales offers, entertainment, information and news updates, personal services such health, love advice, etc.); also see (<http://www.apecdoc.org/post/1/1390>)

¹⁹ "HSBC targeting 25 percent growth in credit card business 09 Jun 2010" The Jakarta Post (Ekonomi) <http://bataviase.co.id/node/244206>

Despite being a fast developing consumer market, with the potential for greater consumer purchasing power, there are only a small number of CSOs that do any work related to consumer credit (hire purchase, loans, and other sources of credit). As such, there is limited knowledge and awareness regarding any laws or provision or measures that regulate activities on hire purchase, loans and credit card, money lending or pawn broking with regards to:

- Limitation on interest rates charged by lending institutions to consumers
- Means or standards to notify or inform consumers the basis for fees and charges imposed
- Means or codes of conduct for debt collection agencies of the banks to recover loans
- safeguards on personal data protection
- prohibition on false and misleading advertisements on consumer credit and banking

Despite the increasing trend in consumer debts, there is also no known form of financial debt counselling agency to provide support to consumers in addressing financial difficulties or debts. Nonetheless, there are other forms of consumer education programs that have been carried out to help address the concern over increasing consumer debts.

Ministry of Finance (MoF) and Bank Indonesia (BI) are the primary authorities in banking and finance in the country. The Banking Mediation Bureau, which is part of BI, is the available mechanism for consumers to seek redress. Some of the challenges related to consumer credits include:

- Lack of knowledge on risk of banking product
- Unfair contract
- Debt collector
- Information disclosure from the bank
- Hidden charges
- ATM /credit card fraud and counterfeit

Visa International and MasterCard listed Indonesia as the second worst countries in the world for credit card fraud occurrence by total incidents recorded.²⁰ Most cases of counterfeit fraud involve skimming, a process where the genuine data on a card's magnetic stripe is electronically copied onto another, without the legitimate cardholder's knowledge, or fraudulently obtaining card details to make a purchase, over the telephone or over the Internet. Recently, however, Bank Indonesia has stepped up its campaign to have full migration to EMV chip to enhance security protection against counterfeit cards and fraud.

1.3.5 Environment

The interest in the environment and sustainability appears to be on the rise in markets all across the world. Environmental issues related to products disposal or waste is one problem that is related to consumers. This calls for products and services to be produced and consumed in a sustainable manner. Materials used for packaging relate directly and indirectly to consumer demand patterns and contribute to waste generations and environmental degradation. Consumers in Indonesia are also aware of the implications of products that they buy on the

²⁰ Michael Linnitt <http://www.expatriate.or.id/info/creditcardfraudinindonesia.html>

environment. Thus, pressure for producers to supply responsible and sustainable products has also increased. Lately, it has been observed that organic food has also increased in demand in the country.²¹

Apart from clean environmental surrounding, air quality is also important for the enjoyment of safe and healthy life of consumers. Like many other countries, Indonesia has taken positive step to manage the issues surrounding air pollution and haze.²² Climate change is an issue that is also close to Indonesia's agenda. The management of Indonesia's rich natural resources and forest has been under scrutiny by various parties due to some misaligned policies.^{23 24} As a dynamic developing nation, Indonesia has increased efforts to protect and enhance its environmental quality. To date, Indonesia has signed various multilateral agreements such as:

- Convention on Biological Diversity, 1992
- Cartagena Protocol on Bio-safety, 2003
- United Nations Framework Convention on Climate Change Protocol, Kyoto, 1997
- Montreal Protocol on substances that deplete the Ozone, 1987
- Stockholm Convention on Persistent Organic Pollutants, 2001
- Basel Convention on the Control of Transboundary Movement of Hazardous Wastes, 1989
- ASEAN Agreement on Transboundary Haze Pollution (2002)

WHO report also suggests that Indonesians are increasingly being exposed to health risks from environmental hazards.²⁵ Air pollution and massive air contamination of ground and surface water resources by industries and households are common have been highlighted as major issues that affect consumers. It was also stated that potentially harmful chemicals are readily available to the public and used in agriculture, industry and commerce. Haze from the forest fires in Indonesia has had significant disruptive social and economic domestically, and has posed some concerns from neighbouring countries.

1.3.6 Health and Healthcare services

There are 33 provinces and each province is sub-divided into districts and each district into sub-districts. As decentralization had been already implemented, the 399 districts and 98 municipalities are now the key of administrative units. Figure 1.1 presents a schematic diagram on the health care system of Indonesia. Basically, each sub-district in Indonesia has at least one health centre headed by a doctor, usually supported by two or three sub-centres, the majority of which are headed by nurses. At the village level, the integrated Family Health Post (Puskesmas),

²¹ J. Indro Surono. (2007). *Country Case Study of Indonesia*. Regional Conference on Organic Agriculture in Asia. 12-15 December 2007. Bangkok, Thailand; Siti Jahroh. (2010). *Organic Farming Development In Indonesia: Lessons Learned from Organic Farming in West Java and North Sumatra*. Innovation and Sustainable Development in Agriculture and Food. 28 June–1 July, 2010. Montpellier, France.; also http://www.intracen.org/Organics/documents/Indonesia_ppt.pdf

²² US-EPA on Indonesia. <http://www.epa.gov/oia/regions/Asia/jakarta.html>

²³ <http://www.undp.or.id/programme/environment/>

²⁴ <http://rainforests.mongabay.com/20indonesia.htm>

²⁵ Retrieved from <http://www.who.or.id/eng/strategy.asp?id=cs2>

which is established and managed by the community with the assistance of health centre staff, provides preventive and promotive services. To improve maternal and child health, midwives are being deployed to the villages. Currently, there are around 1,500 public and private hospitals (more than 600 are private), 7,621 small public health centres (Puskesmas), 29,499 physicians, and 135,705 nurses throughout the nation's 33 provinces. Out of the 7,621 health centres, about 4,000 offer dental care.²⁶ Community and preventative health programs formed another component of Indonesia's health system. Providing access to medicines is also one of the key responsibilities of the government. During the 1997-98 crises, the Indonesian Ministry of Health took an effective and focused action to ensure the availability and affordability of generic essential drugs in private pharmacies and to ensure generic drug were supplied to health centres.²⁷

Hospital beds, however, were unequally distributed throughout Indonesia, with the better equipped urban hospitals tended to have more physicians and higher central government spending per bed than did hospitals in the rural areas.

The creation of “Healthy Indonesia 2010” by the Ministry of Health and Social Welfare forges collaborative goals:

- To initiate and lead a health orientation of the national development
- To maintain and enhance individual, family, and public health along with improving the environment
- To maintain and enhance quality, accessible, and affordable health services
- To promote public self-reliance in achieving government health

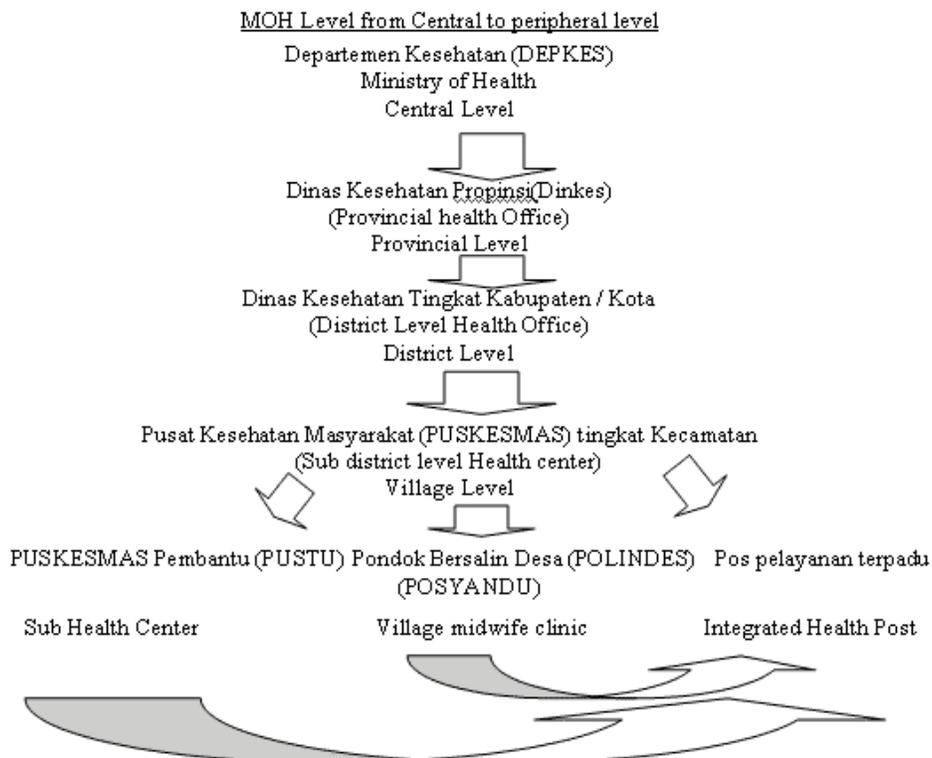
The Decentralization Policy has been implemented in Indonesia, through the implementation of Law No. 22/1999 regarding Regional Governance and Law No. 25/1999 regarding the financial equality between Central and Regional government. The Policy brought about changes from a Centralized to a Decentralized type of government, which provides regional autonomy to provide healthcare within the region.

To improve quality of healthcare in the country, National Health Information Systems (NHIS) reforms have been indicated by the development of a NHIS policy and strategy that was included in the Ministry of Health Decree No. 468/MENKES-KESOS/SK/V/2001, dated 25 May 2001, which has then been amended by Decree No. 511/MENKES/SK/V/2002, dated 24 May 2002. The Government of the Republic of Indonesia also established a coordinating body, called BAKORNAS at central level, and SATKORLAK at provincial level to response to both natural and man-made disasters (for Emergency Response and Preparedness).

²⁶ WHO- Country Health System Profile. http://www.searo.who.int/en/Section313/Section1520_6826.htm

²⁷ WHO Health System Library <http://infocooperation.org/hss/en/d/Jh2950e/2.3.html>

Figure 1.1: Organisational structure of Indonesia’ Health System²⁸



Most common consumer complaints received related to healthcare services for 2009 as reported by YLKI²⁹ were:

On Government Hospitals

- Access to health care for poor people
- Bad services
- Discriminative to those who use government health insurance³⁰ - hospitals tend to give less priority or poor treatment to those seeking healthcare using this health insurance due to the inferior socio-economic or stigma associated with the insurance scheme, compared to those who have private insurance or with credible cash payment status.

On Private Hospitals

- Tariff
- Use of unnecessary supporting health equipment

²⁸ Adapted from WHO: Country Health System Profile. Retrieved from http://www.searo.who.int/en/Section313/Section1520_6822.htm

²⁹ Based on Secondary Data collection by YLKI for this Project

³⁰ Health Insurance for the Poor (Askeskin) program, see http://www.smeru.or.id/report/workpaper/askeskin/askeskin_eng.pdf ; also, Jamkesmas is a health insurance scheme for the poor introduced in early 2008 <http://www.thejakartaglobe.com/home/indonesian-government-to-cut-state-health-insurance/335205>

Unfortunately, there were no official reports, data, figures or statistics available for reference on the exact details on any cases related to the complaints mentioned above.

1.3.7 Professional services

In Indonesia, according to YLKI³¹ three types of professional services are often sought by consumers

- Medical Profession
- Notary for housing and land
- Legal

However, in this study the discussion on 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.³² 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.³³ 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.

³¹ Based on Secondary Data collection by YLKI for this Project

³² 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

³³ Marion J. Ball and Jennifer Lillis. (2001). *E-health: Transforming the Physician/Patient Relationship*. The International Journal of Medical Informatics 61 (1): 1-10.

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)³⁴
- Declaration of Helsinki - Ethical Principles for Medical Research Involving Human Subjects³⁵
- International Code of Medical Ethics³⁶

There are also various legal instruments and programs that have already being put in place to ensure ethical practices, including those related to advertising by doctors in Indonesia (also see Section 3.1.7.1). It is also noted that Indonesia places certain restrictions to limit the practice of foreign doctors. In Indonesia, foreign medical and allied health specialists can be legally registered only as consultants and are not allowed to practice permanently in Indonesia.³⁷

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

1. Doctor may give wrong diagnosis, also not carrying out procedure properly
2. Fraud or dishonest practice
3. Breaches of confidentiality or trust
4. Does not provide full explanation before any course of actions

Challenges in general may include :

- Strengthening the capacity of disciplinary board
- Propose means to notify consumers of blacklisted or unlicensed practitioners
- Train sufficient local doctors

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.³⁸

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.

³⁴ Declaration of Geneva (1948). Adopted by the General Assembly of World Medical Association.

<http://www.cirp.org/library/ethics/geneva/>

³⁵ Adopted by the 18th WMA General Assembly, Helsinki, Finland, June 1964.

<http://www.wma.net/en/30publications/10policies/b3/index.html>

³⁶ Adopted by the Third General Assembly of the [World Medical Association](#) at London in October 1949. (World Medical Association Bulletin, vol. 1, no. 3, October 1949, pp.109, 111).

³⁷ Widiatmoko and Gani. International relations within Indonesia's hospital sector. Trade in Health Services

³⁸ Thomas J. Moyer et al. A Consumer's Practical Guide to Managing Relationship With a Lawyer.

<http://www.supremecourt.ohio.gov/publications/consumersguide.pdf>

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

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

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

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

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

In Indonesia, “advocate” is the common term for a legal professional having a standing to represent the general public, or clients, or consumers. Similar to many other countries, Indonesia has a national Law on Advocates that governs their duties, rights, and privileges, and that also sets out the Code of Ethics of Indonesian Advocates applicable to those legal practitioners admitted under the Law³⁹ (see also Section 3.1.7.2).

A disciplinary committee or board also exists to examine and evaluate the performance of ethical conduct of an advocate. Currently, there are two well known advocate associations in Indonesia. The Indonesian Advocates Association (or PERADI – Perhimpunan Advokat Indonesia) and the Congress of Indonesian Advocates (or KAI – Kongress Advokat Indonesia) is mainly formed by some previous members of PERADI⁴⁰. Currently, however, there is an on-going court case involving these two associations over the claim on the right to grant practicing certificates to advocates in the country.⁴¹

³⁹ The Indonesian Advocates Association. Annual Report 2010.

http://www.lawcouncil.asn.au/shadomx/apps/fms/fmsdownload.cfm?file_uid=EFFBDCC6-0D0C-50DF-971E-F5FC3382F95B&siteName=lca

⁴⁰ Abdul Khalik. 05/31/2008. Lawyers form rival bar association. The Jakarta Post.

<http://www.thejakartapost.com/news/2008/05/31/lawyers-form-rival-bar-association.html>

⁴¹ The Supreme Court Chief Justice, Harifin A. Tumpa, issued SK KMA No. 089 year 2010 to state the Supreme Court position on the issue.

PERADI was established by eight previous advocate organizations. In its 2007 Annual Report, PERADI⁴² states that it organizes examination for advocates and issues practicing license, and those foreign advocates who plan to work in Indonesia may also seek recommendations from the Association.

Foreign lawyers are allowed to work or to be employed in Indonesian law firms,⁴³ whereby they have to be hired by an Indonesian firm and have to obtain a working visa from the Indonesian government. A recommendation from the authorized Advocate Association (such as PERADI) is also required. However, there are still some restrictions for foreign lawyers to practice law in Indonesia, such that they are only permitted to provide consulting services on foreign law, rather than Indonesian law. Additionally, foreign lawyers are not allowed to appear before any court, and they are not allowed to practice law and/or set up law firms or branches of their overseas law firms in Indonesia.

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 of disciplinary actions against the identified lawyers and firms include:⁴⁴

- *“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 Indonesia, found during the course of this Study.

⁴² <http://www.peradi.or.id/in/index.php>

⁴³ Suharti, Abdul Razak Asri and Davidson W.A Samosir. (26 November 2010). *Indonesian Lawyers Must Prepare Themselves to Go International*. <http://en.hukumonline.com/pages/lt4cefa7e0c5e74/indonesian-lawyers-must-prepare-themselves-to-go-international>

⁴⁴ See examples on the Malaysian Bar Website (Summary of Orders made by the Disciplinary Board at its 157th to 161st Board Meetings). Retrieved 17 Jan 2011.

2. METHODOLOGY

2.1 SCOPE

In developing the capacity building roadmap on consumer protection for ASEAN, this research 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 will be 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>
<ul style="list-style-type: none"> ▪ Product safety and labelling 	: Consumer products including food and cosmetic products (excluding drugs and medicines)
<ul style="list-style-type: none"> ▪ Phone & Internet services and E-commerce 	: Including broadband services, online purchase, rates and charges, access, quality of services.
<ul style="list-style-type: none"> ▪ Consumer Credit and Banking 	: Banking and financial institutions providing loans; money lending, hire purchase or other financial assistance to consumers.
<ul style="list-style-type: none"> ▪ Environment 	: Policies, laws and programs for safe and healthy environment, products or services related to water, energy and air
<ul style="list-style-type: none"> ▪ Healthcare services 	: Public and private health care services, pharmaceuticals. Laws related to chargeable fees and accountability with
<ul style="list-style-type: none"> ▪ Professional services 	: 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, nongovernmental, and business organizations.

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 programs and initiatives
- Key stakeholders' views and analysis

While in the **AOC** of consumer protection legislations and programs, the following activities were carried out:

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

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 Indonesia was carried out by the focal points, YLKI, 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. YLKI also assisted in making all the necessary arrangements and schedule during the field visits from 18-23 October 2010. YLKI has a long and strong establishment in the areas of consumer protection in Indonesia, which enabled YLKI to compile information related to consumer complaints and consumer trends in the country.

The approach towards constructing the roadmap on the capacity building needs in consumer protection in Indonesia 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 polices, 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, programs, initiatives and reviews.
- A general survey of national laws, programs 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 Indonesia. The data was collected by the Project focal point in Indonesia, Yayasan Lembaga Konsumen Indonesia (YLKI) 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 organizations 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 programs.

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 programs 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 will also be noted to be taken up for further deliberations during KII and RTD.

The GS was distributed locally by YLKI throughout the month of October 2010. Briefing for YLKI staff on the general objectives of the Project and the General Survey was done through phones, and also in YLKI's office in Jakarta on 8 September 2010. The stakeholders targeted for the general survey were identified by YLKI. (*Please see Appendix 1 for List of Stakeholders*).

2.3.3 Key Informant Interviews

In addition to the general questionnaire is the interview with Key Informants in each of the countries. The Key Informants are persons in senior positions within relevant organizations who are involved in policy making or enforcement or individuals who are acknowledged experts in the field. These individuals will be identified in consultation with members/contacts of CIKL, in the respective countries.

The Key Informant Interviews (KIIs) utilised open-ended questions to probe for more detailed information based on the findings from the general survey. This includes probing into

recommendations and prioritisations as well as short, medium and long-term strategies and focus areas for capacity development on consumer protection for the relevant institutions nationally and regionally.

Key Informant Interviews were conducted at the respective stakeholders' offices from October 18-23, 2010. A total of 15 participants were interviewed for an average time of one hour per session. Most of the Key Informants are leaders of the respective organisations with key roles in strategic planning, operation, and leadership. (*please see Appendix 2 for list of Key Informants*).

2.3.4 Roundtable Discussion

The half-day Roundtable Discussion (RTD), which was the final step in information gathering was conducted on October 23, 2010 at Lumire Hotel, Jakarta was attended by 16 participants, was conducted primarily as a validation step, aiming at strengthening the validity and reliability of data and information collected. The participants invited were representatives of mid-level or junior-level government officials, ACCP members, program staffs of NGOs, academia, judicial or legal and business sectors.

The RTD was hosted by YLKI. Power-points presentation was used to share all relevant data from the Secondary Data, General Survey analyses and the Key Informant Interviews. The comments and feedback were consolidated throughout the 3 ½ hour process. (*Please see Appendix 3 for RTD Programme*)

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 Indonesia, 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*"⁴⁵. 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.

⁴⁵ Matrix developed by John T.D. Wood (1996).

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 Indonesia. 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).

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
Organizational profile and consumer protection measures	Frequencies
Level of difficulty in implementing consumer protection programs 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 Indonesia 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 based on their direct and indirect involvement in consumer protection and the six main sectors that have been specified such as:

- The government entities (the relevant ministries, particularly with relevance to the sector specified, including consumer tribunals and courts);
- Local authorities
- Regional Institutions or inter-government organizations such as ASEAN Secretariat (ASEC) 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 organizations (NGOs)/civil society organizations (CSOs) including consumer associations,
- Academic or think-tank institutions such as ASEAN ISIS
- Professional bodies of legal and medical services

Initially, twenty stakeholders were identified and targeted by YLKI as potential respondents of the General Survey (Table 2.3). Subsequently only 11 stakeholders of whom 3 were government organizations, 4 non-governmental organizations and 4 from independent agency or regulatory body completed the Survey, giving the success rate of 55%. *(Please see Appendix 1 for List of Stakeholders)*

Table 2.3: Targeted Respondents for General Survey in Indonesia

<u>Government/ Regulatory Agencies</u>	<u>Civil Society Organizations (NGOs)</u>	<u>Business Organizations</u>
Directorate Consumer Protection, DG Domestic Trade, Ministry of Trade	YLKI (Member of Board)	Assosiasi Perusahaan Retail Indonesia (Indonesian Retailer Association)
BRTI/Indonesian Telecommunication Regulatory Body	ICT Watch	Indonesian Cellular Association
KKI/Indonesian Medical Council	YPKKI / Consumers Protection Organization on Health Sector	Indonesian Medical Association
Directorate General Medical Services, Ministry of Health	- Not Available (NA)	Persi/Indonesian Hospital Association (Persatuan RSUD se Indonesia)
Directorate General Pharmaceutical and Health Equipment Services, MoH	Indonesian Pharmaceutical watch (IPW)	GP Farmasi/Indonesian Pharmaceutical Manufacturer Association
B POM/National Agency for Drug and Food Control	-NA	GAPPMI/Indonesian Food and Beverages Manufacturer Association
Banking Mediation Bureau, Bank of Indonesia Indonesian Banking Architecture, Bank of Indonesia	-NA	Perbanas/National Banking Industry Association
Director General of Renewable Energy and Energy Conservation	IESR/Indonesian Energy Sector Reform	- NA

2.5.1 Overview of Consumer Movement

Consumer movement in Indonesia is relatively matured, as the government also dedicates a special function to encourage and support the development consumer-related NGOs. Currently, there are a number of NGOs work and advocate specifically on consumer issues. In this study, the following consumer-based organisations have played key roles in consumer movement in the country, with various programmes and activities, as well as influencing legislative development.

- YLKI
- ICT Watch
- YPKKI / Consumers Protection Organization on Health Sector
- Indonesian Pharmaceutical watch (IPW)
- IESR/Indonesian Energy Sector Reform

YLKI, established in 1973, is the first and the largest consumer organisation in Indonesia. YLKI's main activities include handling of consumer complaints, research, education, publication and providing data and information. Consumer issues handled by YLKI, a member of Consumers International, vary from public utilities (electricity, water, telecommunication), to rights to basic needs such as housing, banking, health, food safety and education. Nowadays, issues relating to trade liberalisation have become increasingly important with an impact on almost all public sectors and on consumers' access. Amongst the campaign tools used by YLKI are advocacy, solidarity, networking and dissemination of independent and balanced information.

2.6 LIMITATIONS

Due to the time constraints, some relevant stakeholders were not able to participate in the general survey (GS), key informant interviews (KIIs) and the roundtable discussion (RTD).

Further, the availability of detailed materials primarily depended on the available 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.⁴⁶

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.

An extensive overview on Consumer Protection in Indonesia has been published by MTT⁴⁷. In general, the Constitution of the Republic of Indonesia 1945 has been the basis for all laws in the country. In relation to consumer protection, Article 27(2) of the Constitution specifies that *“Every citizen has the right to work and to live in human dignity”*, hence consumers should be able to enjoy living environment that allows them the accessibility, affordability and availability of their needs. Article 31(1) states that *“Every citizen has the right to education.”*, hence is relevant to consumer education. Article 33 exemplifies the basis of economic democracy which envisages prosperity for everybody.

Numerous laws provide for consumer protection in Indonesia in relation to prices, weights and measures, unfair contract terms, travel, second hand goods, credit and banking, utilities, telecommunications, safety and quality, fees and charges etc., which are implemented by various Agencies. (Please see Appendix 4 on List of Laws and Appendix 5 on List of Implementing Agencies).

3.1.1 Principal Consumer Protection Act

Consumer Protection Law No. 8/1999 under the Ministry of Trade and Industry provides extensive provisions on rights of consumers and their obligations, and entrepreneurs' rights and obligation, as well as prohibitions imposed on the entrepreneurs. The Law also provides a specific mechanism, the establishment of the National Consumer Protection Agency whose functions are based on developing and promoting consumer protection efforts in the Indonesia.

⁴⁶ ASEAN Secretariat (2009).

⁴⁷ An Overview on Consumer Protection In Indonesia. Directorate of Consumer Protection <http://pkditjenpdn.depdag.go.id/>

The establishment of Consumers Dispute Settlement Body is also among key elements that have been put in place through the Law.

In this study, a general analysis on Law No. 8/1999 on Consumer Protection was made using Wood's (1996) Consumer Laws Matrix (*please see Appendix 5*), which is based on the parameters of the 8 consumer's rights. The analysis suggests that the Law contains strong provisions protecting consumers of their rights to safety, to be informed, to choose, to redress, and to consumer education. However, provisions relating to protecting consumers of their rights to healthy environment and to the satisfaction of basic needs seem to be lacking, which may need to be addressed through appropriate amendments.

Specifically referring to the Law, Article 1 under Chapter 1 of the Law states that "*Consumers protection is all means which guarantee the legal security to protect consumers*".

Various clauses on prohibited practices of entrepreneurs are covered under Chapter IV. In relation to labelling of product or services, Article 8 specifies that entrepreneurs are prohibited from producing any products or services that

- Do not conform to the required standards
- Mislead or state false information on product label in terms of weight, volume or amount, sizes or measurement, guarantee, specialty or efficacy; composition or contents, processing or production methods, etc
- Do not state expiry dates
- Do not conform to halal production if halal label is used
- Do not include information or instructions on the use of the products or service.

Article 8 of the Consumer Protection Law No. 8/1999 also specifies that labels of product or services must contain information the name of the product, size/weight, composition, instruction or description of usage, production date, side effect, name and address of manufacturers. As stated in Article 8(j) labels must be in Indonesian language.

Various misleading or deceiving advertising or marketing practices are also covered under Article 11, among others includes claims on standard quality or that there is no hidden effect; cheating whereby the products given or sold to consumers are different than the ones promoted, insufficient quantity, amount, or weight, and hiking the prices before selling the goods on sale. Article 17 also states that entrepreneurs are not allowed to deceive consumers in terms of quality, quantity, ingredients use, guarantee, as well as practices that violate ethics and/or provisions on advertising.

Article 14 of the Consumer Protection Law No. 8/1999 allows trading by giving prizes through lottery. However, entrepreneurs must meet specific requirements such as conduct the draw on the stipulated date, announce the result through mass media, give out the promised prizes and substitute any prizes with equal value with the promised prizes.

Further, under Article 19, entrepreneurs are obliged to provide compensation, in the forms of refund, replacement with equal value, or healthcare or insurance for any damage, foul or losses suffered by consumers due to the products or services within the period of seven days.

Usage of Standard Clauses are also prohibited under Article 18, which includes, among others, transfer of entrepreneur's responsibility, stating entrepreneur's rights to refuse products returned, or their rights to forfeit the use of goods or the benefits of the services purchased or rendered.

National Consumer Protection Agency (NCPA)

The National Consumer Protection Agency (NCPA) is one of the key initiatives of the government to ensure protection of consumers in Indonesia. NCPA acts primarily as an Advisory Body, and under Article 32 of the Consumer Protection Law No. 8/1999, the Agency has a direct role to play to provide any suggestions or recommendations to the President. The other key roles of the Agency includes conduct studies or surveys on impact of policies as well as impact of products or services on consumers, and studies on consumer needs; assist the development of consumers organizations, promote consumer empowerment; and, receive and handle consumer complaints. Article 36 states that the members of the Agency shall be represented by government, entrepreneurs, non-government organizations, academicians and experts.

Consumer Dispute Settlement Body (CDSB)

Article 49 of the Consumer Protection Law No. 8/1999, and further strengthened by the Trade Decree on the Roles and Authority of CDSB, presents another key initiative of the government to provide means for protecting consumers and acquiring redress. The Agency also known as Consumer Protection Settlement Body or CDSB at the Level II Administrative Regions throughout the country, functions to provide a mechanism to settle disputes outside the court system through mediation, arbitration or conciliation. A CDSB consists of serving members include a chairman, a vice chairman and members. Article 55 states that the Board "*is obligated to render a decision at least within 21 (twenty one) days after the charge is received*". And within seven days, the entrepreneurs are obligated to implement the decision (Article 56). The decision rendered by CDSB is deemed final and binding. However, Article 58 states that any appeal shall be decided upon by the District Court.

3.1.1.1 Implementing Agencies

The Directorate of Consumer Empowerment⁴⁸ under the Ministry of Trade and Industry is the primary agency responsible for consumer protection in Indonesia.

3.1.2 Laws on Product Safety and Labelling

Law No. 7/1996 on Food under the National Agency for Drugs and Food Control specifies legal provisions related to food safety, quality and nutrition, labelling and advertisement. Government Regulation on Food Labelling and Advertising Law No. 69/1999 specifically specifies legal

⁴⁸ Was formerly known as the Directorate of Consumer Protection, and renamed since September 2010. The change is also made in relation to the upgraded profile of the Directorate in the Organization Chart of the Ministry. http://www.depdag.go.id/bagan_organisasi/

provisions on information that should be put on label and advertisement related to health and nutrition claims. Minister of Trade Regulation 62/M-DAG/PER/12/2009 jo. No. 22/M-DAG/PER/5/2010 on the Obligation of Product Labelling whereby company producing or importing goods/products distributed in Indonesia market are required to have labels with Bahasa Indonesia.

Government Regulation No. 28/2004 on Food Safety, Quality and Nutrition specifies specific provisions with regards to food sanitation, food additives, contaminated food, and genetically modified food. The Regulation also states the various government institutions responsible for the food quality, certification, nutrition, including Ministry of Agriculture, Ministry of Health, and Ministry of Trade, National Agency for Drugs and Food Control, Local Government.

Minister of Health Regulation No. 1176/MENKES/PER/III/ 2010 on Notification of Cosmetics states that cosmetics distributed in Indonesia are required to adopt standards and/or quality requirement, safety and efficacy as regulated and are required to notify and carry a distribution license from MoH.

Other laws related to Product safety are the Minister of Health Regulation No. 1184/MENKES/ PER/X/2004 on the Security of Health and Household Equipment and the Minister of Trade Regulation No. 44/M-DAG/PER/9/2009 on Provision, Distribution, and Control of Hazardous Substances.

3.1.2.1 Implementing Agencies

These agencies are in charge of product safety and labelling and handle specific areas as discussed in the above Section:

- i) Directorate of Consumer Empowerment
- ii) Ministry of Agriculture
- iii) Ministry of Health
- iv) Ministry of Trade
- v) National Agency for Drugs and Food Control
- vi) Local Government
- vii) National Standardisation Body of Indonesia

3.1.3 Laws on Phone & Internet Services (PIS) and E-Commerce

Telecommunications Law No. 36/1999 is the main Law in place to regulate telecommunication products and services, supplemented by Government Regulations No. 52/2000 on Telecommunications providers. New development in business and consumer demands forms need for the Information and Electronic Transaction Law No. 11/2008 supplemented by other Decrees No. 11-14/2008 concerning Quality of Service Quality of Service for Fixed Wireless Access, Quality of Service for International Network Service, Quality of Service for Mobile Network Service, Quality of Service for Local Network Service, Quality of Service for Long Distance Network Service.

Decree Of The Minister Of Communication And Information Technology No. 29/Per/M.Kominfo/09/2008 On Certification Of Telecommunication Tools And Equipment states that

any telecommunication tools and equipment manufactured, assembled, imported for trade and or for use in the territory of the Republic of Indonesia shall fulfil the technical requirements, and that verification on the fulfilment of technical requirements of telecommunication tools and equipment to be implemented through Certification. Minister of Communications Decree No. Km 3/2001 specifies Technical Requirement of Telecommunications Equipment and Apparatus.

Decree Of The Minister Of Communication And Information Technology No. 01/Per/M.Kominfo/01/2009 on Provision Of Premium Messaging Service And Transmission Of Short Messaging Service /SMS To Many Destinations (Broadcast) specifies provisions related to the allowable and prohibited practices related to premium short message service (content providers) and broadcast message service.

The Consumer Protection Guidelines for ICT under Section 4.1 describes that

- Solicitations includes advertising and billing shall include clear, conspicuous and accurate disclosure of applicable rates, terms and conditions for each service offered in the solicitation, bills to reflect all charges briefly, clearly.
- Also consumer choices - Consumers shall have the right to select their providers and services, where multiple options exist.

The Guidelines also states that Privacy of consumers shall be respected regarding their personal information and calling patterns. In addition, the level of service access, quality and reliability for both industry and regulators should be measured by a series of adopted Key Performance Indicators through:

- (a) Performance of the telecommunications sector in general;
- (b) Service quality provided to consumers by service providers;
- (c) Effectiveness and timeliness of complaint processes;
- (d) Performance of the regulator in responding to industry and consumer needs; and
- (e) Level of consumer satisfaction with both the service providers and regulatory authority.

To further enhance CP in Indonesia, Decree of Minister of Trade Regulation Number 19/M-DAG/PER/5/2009 concerning The Enlisting of Manual Book and After Sales Service Paper in Bahasa Indonesia for Telematic and Electronic products has listed telephone as one of the products where the User's Guide (manual) and the warranty card/warranty after sale need to be in Bahasa Indonesia.⁴⁹ The Decree also states that mobile phones and cordless phones have to be registered. The registration obligation applies to manufacturers or importers, such that registration needs to be performed before the products are distributed in the domestic market.⁵⁰ Registration on Kemendag Cq. Directorate of Business Development and Registration of Companies and Manufacturers or Importers further requires the manufacturers or the importers to have at least 6 (six) service centres located in a big city or regional representatives where the

⁴⁹ Based on Review comments from The Directorate Consumer Empowerment, Ministry of Trade Republic of Indonesia. 14 February 2011.

⁵⁰ Ibid

products are being circulated. If the manufacturer or importer does not have a service centre, it must have an agreement with other service centres to act accordingly on its behalf.⁵¹

3.1.3.1 Implementing Agencies

These agencies are in charge of PIS, ICT and E-commerce and handle specific areas as discussed in the above Section:

- i) Indonesian Telecommunications Regulatory Authority
- ii) Ministry of Communication And Information Technology
- iii) Directorate of Consumer Empowerment
- iv) Ministry of Trade

3.1.4 Laws on Consumer Credit and Banking⁵²

Article 18 of Consumer Protection Law No. 8/1999 covers usage of standardized clauses, which are also applied to consumer credit.

Further, according to Article 3 of the Bank Indonesia Regulation No. 6/24/PBI/2004 concerning Commercial Banks conducting Business based on Sharia Principles, “A Bank may only be established with a license from Bank Indonesia.” In general, Bank Indonesia Law No. 23/1999 specifies the mandate of Bank Indonesia (BI) to prescribe and to implement the monetary policy; b. to regulate and to safeguard the smoothness of the payment system; c. to regulate and to supervise Banks.

Ownership of Banks Article 5(2) of the Bank Indonesia Regulation No. 6/24/PBI/2004 also states that “*Ownership by foreign citizens and/or foreign legal entity as referred to in paragraph (1) letter b shall not exceed 99% (ninety-nine percent) of the paid up capital of the Bank.*” This legislation may relate to the rights of consumers to wide choices of banking service providers, since any restrictions on bank establishment may limit the number of banks that can operate in the country.

Related to its capacity to carry out their functions and responsibilities, Bank Indonesia has also introduced Regulation No. 3/10/PBI/2001 concerning “*The Implementation of Know Your Customer Principles*”, primarily to encourage banks to know and recognize customers’ identities, monitor their transactions including reporting suspicious transactions, particularly those related to money laundering. In the case of suspicious transactions, Article 12 states that the “*Bank shall appoint a special officer with explicit responsibility to handle high-risk customer, including individual holding important public positions...*”. Article 4 (2) describes the basic information required of banks on their customers (general consumers) such as name, residential address, date and place of birth, nationality, occupation, specimen of signature, and source of fund and purpose of fund.

Bank Indonesia has enacted various regulations related to card-based activities. Bank Indonesia Regulation No. 7/52/PBI/2005 concerning Operation of Card-Based Payment Instruments specifies provisions for credit cards, an ATM cards, debit cards and prepaid cards.

⁵¹ *ibid*

⁵² Most legislation were extracted from Bank Indonesia website:

<http://www.bi.go.id/web/en/Peraturan/Arsip+Peraturan/perbankan1999.htm> ; or Legislation Indonesia <http://www.lexadin.nl/wlg/legis/nofr/oeur/lxweine.htm>

Article 5 of Bank Indonesia Regulation No. 7/52/PBI/2005 states that *“A Bank or Non-Bank Institution may become an Issuer of all kinds of Card-Based Payment Instrument, whether Credit Card, ATM Card, Debit Card, and/or Prepaid Card”*, provided that the non-bank institutions are licensed by the Ministry of Finance of the Republic of Indonesia to conduct Credit Card activities.

To minimize credit risk related to credit card, Article 19 (2) states that Issuers are also required to establish:

- minimum age for prospective Cardholders;
- minimum income for prospective Cardholders;
- maximum credit limit for prospective Cardholders;
- percentage of minimum payment by Cardholders amounting to at least 10% of the total bill;
- procedure for issuing approval for prospective Cardholders.

In addition, according to Article 20 (1) Issuers of credit cards are also required to provide consumers with written information regarding

- procedures and use of the Credit Card;
- important issues that consumer should be aware of involving any consequences/risks that may be incurred from the use of the credit card
- rights and obligations of the Cardholder;
- complaint procedures and estimate of the amount of time required to resolve the complaints;
- calculation of interest;
- components in calculation of penalties;
- types and amounts of administration charges.

On the billing statements, Article 20 (2) specifies that Issuers are required to state the amount of minimum payment, the due date, monthly percentage rate of interest, annualized percentage rate for concluded transactions, including interest on purchases of goods or services, cash advances, and other benefits; amount of penalty for late payment and amount of interest charged.

Article 21 (3) states that *“If credit provision...turns into non-performing loans, the resolution of the non-performing loans, including primary debts, interest and/or penalties, shall be resolved in compliance with Bank Indonesia provisions concerning the establishment and execution of Bank credit policy for commercial banks.”*

Consumer Information and Data

Article 23 of Bank Indonesia Regulation No. 7/52/PBI/2005 also states that *“Issuers are required to exchange Cardholder information and data with all other Issuers, with scope covering the negative list and positive list and the negative list of merchants of goods and/or services (merchant black list)”* through an information management centre. However, Article 23 (4) prohibits providing Cardholder information and data to parties for any purpose other than the exchange of information aside from negative, positive or black listing without written consent from the Cardholder. Bank

Indonesia Regulation No. 7/6/PBI/2005 also states provisions on Transparency of Banking Products Information and the Use of Customer Personal Data and Bank Indonesia Regulation No: 7/ 8 /PBI/ 2005 states provisions on the Debtor Information System.

On other cards such as ATM Cards, Debit Cards, and Prepaid Cards, Article 25 (2), issuers are required to establish

- maximum limits on transaction value;
- maximum cash withdrawal limit; and
- maximum limit stored in the card (Prepaid Cards).

To provide security to consumers when using card-based transaction Article 36(1) states that “Operators are required to enhance the security of the technology used in Card-Based Payment Instruments, whether the security of the card or the security of the entire system” which is further supplemented with Circular Letter No. 8/18/DASP August 23rd, 2006 Concerning: Amendment on the Circular Letter of Bank Indonesia No. 7/60/DASP dated December 30, 2005 regarding Customer Protection and Prudential Principles and Improvement of Security In Operating Card Based Payment Instrument Activities. The Circular Letter states the provisions related to the obligatory use and standardization of chip technology for Credit Cards, ATM Cards, Debit Cards, and Prepaid Cards.

Consumer complaint handling

Bank Indonesia Regulation No. 7/7/PBI/2005 concerning Resolution Of Customer Complaints states that “Every bank should have complaint handling division and have complaint handling mechanism.” This is further enhanced by Bank Indonesia Regulation No 8/5/PBI/2006 dated January 30, 2006 and Bank Indonesia Circular Letter No. 8/14/DPNP dated June 1, 2006, and PBI on Banking Mediation No. 8/5/2006. However, in case no resolutions are reached, Bank Indonesia provides banking mediator function in a simple, affordable, and quick mediation to settle dispute between the customer and the bank.⁵³

3.1.4.1 Implementing Agencies

Bank of Indonesia, which is the Central Bank, 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. Other agencies related to consumer credit and banking are the Ministry of Finance and the Ministry of Housing (Mortgage Policy).

⁵³ Bank Mandiri <http://www.bankmandiri.co.id/english/mediasi.aspx>

3.1.5 Laws on Environmental Quality and Services

Water Resource Law No.7 /2004 states provisions regarding the role of Government to set water resource management policy, conservation of water resources, including surface water (river, ponds, etc), ground water, rainwater, sea water on the ground, household drinking water supply. The Law also specifies the rights to access water for a minimum basic needs in order to meet a healthy, clean and productive life, and address disadvantaged communities due to various problems of water resources management have right to bring a class action to the court. This has been further supplemented with various regulations including Government Regulation No. 42/2009 on Water Resource Management and Regulation No. 43/2009 on Ground Water Management, which cover conservation, quality management, and contamination prevention.

Waste Management Law No. 18/2008 is put in place to facilitate implementation of waste management including reduced and handling waste, and specific waste including hazardous waste. Article 2(1) describes the three categories of waste covered by the Law namely:

- a. household waste;
- b. household-like waste - derives from commercial area, industrial areas, special areas, social facilities, public facilities, and/or other facilities.
- c. specific waste (includes hazardous and toxic materials, waste derived from disaster, construction, or waste that not periodically occurred)

Article 4 articulates that *“The objective of management of waste is to increase public health and environmental quality as well as to utilize waste as energy source.”* The responsibilities of the government and the local government to manage waste in the country includes (Article 6)

- a. developing and increasing the public awareness on waste management;
- b. conducting research, developing technology for reducing and handling of waste;
- c. facilitating, developing, and conducting efforts to reduce, handle, and utilize waste.
- d. carrying out waste management and facilitating in providing the facility and infrastructure for waste management;
- e. conducting coordination amongst government institutions, society, and industry towards an integrated waste management

Chapter 2, 3 and 4 provides the provisions on the authority of the Government, Provincial Government and the District/Municipality Government in managing waste and waste management in the country.

Under the Right and Responsibility Chapter of Waste Management Law No. 18/2008, Article 11 of Chapter 1 states *“Every one has right to*

- a. *have good and environmentally sound services in waste management from the government, local government, and/ or other responsible entity.*
- b. *participate in the process of decision making, implementation, and Monitoring in waste management.*
- c. *get accurate, correct and prompt information on the implementation of waste management.*
- d. *get protection and compensation derived from negative impact caused by the activity of final waste processing site; and*

- e. *get monitoring in order to implement good and environmentally sound waste management.*”

The role of every citizen to play positive role to reduce and manage their waste is also stated in Chapter 2 Article 12. Article 14 further calls for *“Every producer should label or put symbol, on the packaging and/ or their products, related to waste reduction and handling.”* And that *“The producer oblige to manage the packaging of their product and/ or their product which unable or difficult to be decomposed”* (Article 15).

The implementation of waste management (Chapter VI) stipulates that household Waste and Household-like Waste Management should be carried out through two means, which are i) waste reduction which includes limiting waste generation, recycling and re-using of waste, and ii) waste handling.

Article 25 under Chapter 2 on Compensation states that the government and the local government are to provide compensation such as relocation, environmental rehabilitation, health and medication cost; and/ or other forms, *“to a person suffers from the negative impact of the waste handling activities at the final waste-processing site”*.

On Administrative Sanction, Article 32 states that sanctions can be enforced in the form of government imposition, Imposition fee/ fine and/ or permit withdrawal. Articles 33 to 36 state that dispute settlements (either between local government and waste operator, or community, or manager) can be carried out through court or out of court, or through class action.

Apart from describing the justification for state-owned operation, through PT Pertamina, Oil and Gas Law No. 22/2001, Article 42 that in the to protect the environment and the consumers, business activities related to oil and gas should include:

- a. conservation of resources and petroleum and natural gas reserves;*
- b. management of data on petroleum and natural gas;*
- c. application of good technical norms;*
- d. kind and quality of processed products of petroleum and natural gas;*
- e. allocation and distribution of fuel oil and raw materials;*
- f. working safety and security;*
- g. environmental management;*
- h. utilization of domestic goods, services and design and engineering capacities;*
- i. development of Indonesian manpower;*
- j. development of the environmental and local communities;*
- k. mastery, development and application of petroleum and natural gas technology;*
- l. other activities in the field of petroleum and natural gas related business activities as long as they are connected with public interests.”*

National Energy Policy, National Energy Law No. 30/2007 and Government Regulation No. 70/2009 under the Ministry of Energy and Mining Resource on Energy Conservation are put in

place to regulate conservation in energy supply and utilization, as well as conservation of energy resources.⁵⁴

Electricity Law No. 30/2009 describes various provisions related to electricity, primary energy source, and tariffs. The Law also states that consumers have the rights to redress and compensation in case of blackouts due to the negligent operation by the electricity supplier.

3.1.5.1 Implementing Agencies

These agencies are in charge and handle specific areas on environmental quality and services as discussed in the above Section:

- i) Ministry of Environment
- ii) Ministry of Energy and Mineral Resources
- iii) Ministry of Human Environment (Kementerian Lingkungan Hidup)
- iv) Ministry of Public Works
- v) Provincial Government and the District/Municipality Government

3.1.6 Laws on Health and Healthcare Services

Law No. 36/2009 on Health (Health Law), which is an improvement of Health Law No. 23/1992, specifies various provisions related to the rights of individual/citizen in health, among others include access to safe, good, and affordable healthcare services, healthy environment, and information. The Law also states that individual/citizen has the obligation to maintain and increase their health status and to respect other people's rights in health sector. Provisions on Government's responsibilities for providing safe, good, and affordable healthcare services, access to health information, develop health security system are also described in the Law. The Law also specifies Government's role in providing health care resources and health care services including traditional health care; infant, adolescent, maternal healthcare as well as mental health. The Law, the Government is obliged to ascertain the supply of generic medicines to the public ensuring accessibility and affordability for the medicine they need.⁵⁵

Law No. 44/2009 on Hospitals (Hospital Law) states provisions on the Rights and obligations of Patients, Hospital Management, and Health Practitioners, including criminal and civil sanctions. This Law also states the requirements for hospitals to be accredited every three years by independent agencies.⁵⁶

Government Regulation No. 51/2009 on Pharmaceutical Services regulates production of drugs and medicines. The Regulation also specifies provisions related to quality assurance of pharmaceutical products, securing, procurement, storage, and distribution of pharmaceutical

⁵⁴ For details see Energy Policy Development by the Director for New Renewable Energy and Energy Conservation. Directorate General of Electricity and Energy Utilization
http://www.senternovem.nl/mmfiles/5.%20Energy%20Policy%20Indonesia_tcm24-275542.pdf

⁵⁵ Makarim and Taira S. (2010). Indonesia – New Health Law. World Services Group.
<http://www.worldservicesgroup.com/publications.asp?action=article&artid=3211>

⁵⁶ Nurfika Osman. (29 September 2010). *Hospital Law Falls Short of Caring for Poor, Experts Say*. Jakarta Globe.

products, pharmaceutical ingredients, and traditional medicines as well the obligation to apply standards of pharmaceutical care.

Minister of Health Decree No. 1197/2004 on Standards of Pharmaceutical Care in Hospital providing optimal pharmaceutical care, information, communications and education on medicines, as well as analyzing and evaluating pharmaceutical service.

National Drugs Policy (2006) is put in place to ensure the availability, equality, and affordability of drugs, especially essential drugs, apart from research and development, monitoring and evaluation. Ensure the safety, efficacy, and quality of drugs available in the country. The Policy also describes protection of consumers from the misuse of drugs, rational use of drugs, as well as financing, availability and distribution, affordability, selection of essential drugs.

In addition, the National Traditional Medicine Policy (2007) is also put in place to promote sustainable use of natural resources and traditional preparation in effort of improving health service. Further the Policy also includes agenda to ensure availability of quality, effective, and safe traditional medicines, through scientific testing and widely used for self medication and formal health service. Traditional medicine development and promotion also aims at improving community economic growth, creating employment opportunity and poverty reduction.

Also an important Law relevant to this project is related to family health, Law No. 10/1992 concerning Population Development and the Development of Happy and Prosperous Families Article (2) states that *“...efforts to improve the integration and participation of society, family guidance and birth control with due regard to religious values, harmony, proportion, and balance between the size of the population and what the environment can support and accommodate, conditions of socio-economic and socio-cultural development as well as systems of values adhered to by society.”*

To ensure safety of women Article 20 states that *“The use of contraceptive devices, drugs and methods which give rise to a risk to health shall be carried out under guidance and or by competent health personnel.”*

Health services under Law No. 23/1992 concerning Health also provides consumers with the rights to

- Information
- Informed consent
- Confidentiality and privacy
- Second opinion

Challenges:

- According to WHO⁵⁷, Indonesia's National Drug Policy is out of date, and was written before the decentralization - address the division of roles between the Ministry of Health and the National Agency for Drug and Food Control (earlier, drug and food control was under the MoH, not NA-DFC).

⁵⁷ WHO-Indonesia website <http://www.who.or.id/eng/ourworks.asp?id=ow5>

- The use and prescription of drugs in Indonesia is not always very rational, due to a variety of factors, including lack of awareness and information among prescribers as well as patients.
- Counterfeit medicine is still an issue, apply to both branded and generic products and counterfeit products may include products with the correct ingredients or with the wrong ingredients, without active ingredients, with insufficient active ingredients or with fake packaging.

3.1.6.1 Implementing Agencies

The Ministry of Health is the key agency in charge and handle specific areas on health and healthcare services as discussed in the above Section. The National Agency for Drug and Food Control is the key agency in implementing food and medicines related laws.

3.1.7 Laws on Professional Services

3.1.7.1 Medical Professionals

Law No. 2g/2004 on Medical Practices is put in place to regulate medical practitioners and specifies rights and obligations of Patient and Medical Practitioners enforced through the Indonesian Honorary Board of Medical Disciplines under the Indonesian Medical Council. Medical Council Regulation No. 1419/2005 on Medical Practices supplement the Law related to practice and relationship between patient and medical doctor/dentist.

Consumers expectation related to professional services from doctors include:

- Reliability: capacity to provide services as described in effectively and in satisfactory manner
- Responsiveness: capacity to provide unprejudiced assistance and services, regardless of race, religion, or economic background
- Assurance: of quality, safety, and security
- Empathy: capacity to communicate and understand consumer needs. Generally, consumers in Indonesia perceive doctors, as well as lawyers, in Indonesia as “unapproachable” associated with some form of superiority complex in the context of societal integration.

3.1.7.2 Legal Professionals

Law No. 18/2003 concerning Advocates was the first advocate law enacted in Indonesia, which regulates the qualification for and practices of advocates. The Law defines “Advocate” as a person with a profession to provide legal services, either inside or outside the court and has met the requirements set forth in this law (Article 1).

The Law stipulates that an advocate is prohibited from holding or possessing any other position or having any other profession that could cause a conflict of interest with the duties and dignity of his profession or position that may prejudice the advocate’s profession, or interfere with or

diminish his / her independence and freedom as an advocate in performing his / her duties and responsibilities. It is clearly stipulated in the Law on Advocate that if an advocate accepts a state office appointment or alike and becomes one, he /she must not go on practice and shall not be permitted to practice as an advocate until the time he / she resigns from such appointment.

Article 19 of the Law specifically states that:

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

(2) “An Advocate has the right to keep confidential anything pertaining to his/ her relation with his/ her client, including the protection of his/ her files or documents from confiscation, investigation and from taping of the Advocate’s electronic communication”.

Article 3 of Law No 18/2003 stipulates the requirements to be an “appointed advocate” in Indonesia which include:

- i. Indonesian Citizen;
- ii. Residing in Indonesia;
- iii. Is not as civil servant/ government officials;
- iv. Aged at least 25 (twenty five) years;
- v. Holding a bachelor’s degree in Law and certificate of practice
- vi. Has passed the examination held by an association of advocates
- vii. Completed at least 2 consecutive year of internship with an Advocates’ Office or legal firm;
- viii. Has committed any criminal acts which may be subjected to an imprisonment for 5 (five) years or more;
- ix. Has a good conduct, honest, responsible, fair, and high integrity.

Foreign lawyers or advocates are permitted under Article 23 of Law No. 18/2003 on Advocates (“Advocate Law”) to practice in Indonesia. Specifically, Article 23 (1) states that a foreign advocate is not allowed to appear in or address the court, practice or establish an office or its branch in Indonesia.

Indonesian advocates have serious ethical and legal obligations to their clients. The Code specifically governs the advocate’s duties to his/her client (Article 4), which, among others, include:

- Presenting a peaceful workable resolution
- Maintaining the confidentiality of all matters informed by a client, even after advocate-client relationship comes to an end.
- Should oblige to refuse cases that lack legal ground;
- Not providing misleading information to a client in respect of the case.
- Not promising any guarantee for successful outcome to a client.
- Not imposing on client with a burden of unnecessary expenses and costs.

3.3.7.3 Implementing Agencies

The Ministry of Health is the key agency in charge and handle specific areas related to Medical Professional services and the Ministry of Justice and Human Rights 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

Law No. 2/1981 on Legal Metrology related to measurements: weight, length, etc. The Law also describes prohibited practices. Further, Minister of Trade Regulation No. 08/M-DAG/Per/3/2010 regarding Measurement tools, Weight, Length, and Measuring Equipment that are mandatory to be validated and revalidated.

Law No. 5/1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition is put in place to enhance healthy competition to provide consumer with wider choices, through elimination of market control by certain groups. Article (1) describes the nature of monopolistic practices as "...the control of production and/or marketing of certain goods and/or use of services by one entrepreneur or a group of entrepreneurs," and "...the centralization of economic power by one or more entrepreneurs causing the control of production and/or marketing of certain goods and/or services, resulting in an unfair business competition and can cause damage to the public interests." Article 6 states that "*Entrepreneurs are prohibited from making contracts which cause buyers to pay a different price from the price that must be paid by other buyers for the same type of goods and/or services.*"

Law No. 14/2008 on Public Information Disclosure strengthens the rights of consumers to access information and rights for representation in public policy making processes. Article 3 states the main objectives of the Law, which include⁵⁸:

- to secure the right of the citizens to know the plan and the reason to make public policies, programs, and the public decision-making process;
- to encourage the participation of the community in the policy-making process
- to increase the active role of the citizens in making public policies and in managing Public Agencies properly;
- to achieve good governance, through transparent, effective and efficient, accountable and responsible manner;
- to understand the rationale of a public policy and its impact on the life of the people;

3.2 INTER-AGENCY COORDINATION

National Consumer Protection Agency plays an active role in promoting inter-agency coordination among the various stakeholders to enhance consumer protection in the country. Some examples coordination among relevant authorities, national consumer protection authority and consumer organisations cited in the GS, or during the KII and RTD includes:

⁵⁸ Extracted from "Access to Information Laws: Overview and Statutory Goals". <http://right2info.org/access-to-information-laws>

- Working Group on Toys
- Task Force (Based on issue) e.g. Task Force on Advertisements Monitoring
- Task Force on Monitoring Telecommunication
- Bank Indonesia's Consumer Education Committee
- Task Force on Developing Guidelines

3.3 REDRESS MECHANISMS

Law No. 30/1999 on ADR & Arbitration, which was promulgated in 1999, provides the rules for ADR (consensually based dispute settlement) and arbitration. Article 2 of the Law describes the scope of application of the Law that applies for disputes settlement that is predetermined by parties in the agreement/contract. The use of arbitration in the administrative type ADR such as in the labour, environment and consumer protection dispute settlement are also prescribed in the Law No. 30/1999.

In Indonesia, generally, ADR is interpreted as alternative to adjudication as it is reflected in the title of the Law No. 30/1999 which separates ADR⁵⁹ and arbitration. Indonesia has been practicing four main types of ADR, namely:⁶⁰

1. Judicial Type ADR (Court Connected ADR)
2. Administrative Type ADR
3. Private Sector Type ADR
4. Traditional Type ADR

In the issue of environment, ADR has also been recognized as an important element of environmental dispute resolution. Article 30-33 of Law No. 23/1997 on Environmental Management introduces mediation and arbitration as means to settling environmental disputes. Government Regulation No. 54/2000 as implementing regulation of article 30-33 of Law No. 23/1997 establishes Environmental Dispute Settlement Service Provider in national as well as provincial/district levels facilitated by Ministry of Environment (MoE) in the national level, and Local Environmental Protection Office in the province and district levels. This service provider provides mediation and arbitration services which are carried out by mediators/arbitrators from government and private/community members.

According to Mas Achmad Santosa (2002), the MoE has established the National Environmental Dispute Settlement Service Provider (NEDSBSP) in 2002. However, there were no cases mediated or arbitrated reported at the point of the publication. The dysfunction of the NEDSBSP was then attributed to some factors among others:

- (1) low public awareness about the existence and function of the NEDSBSP;

⁵⁹ ADR includes negotiation, mediation, conciliation, early neutral evaluation and other hybrid type of ADR.

⁶⁰ Extracted from Mas Achmad Santosa (2002)

- (2) lack of motivation or sense of urgency to abide or to adhere especially among powerful corporations to settle their disputes through mediation as they are not threatened by enforcement actions;
- (3) lack of proper public complaint procedures and mechanisms for environmental cases to be settled through ADR.

The Law on Consumer Protection (Law No. 8/1999) introduces Consumer Dispute Settlement Body (Badan Penyelesaian Sengketa Konsumen), or CDSB, is established by government in each district level for the purpose to serve out court settlement through mediation. CDSB is a non structural institution having the function of “setting consumer dispute outside the court cheaply and simple in short of time.” It takes the position in all regencies and cities through out Indonesia.

Two types of ADR exist in private sector

(1) business association type - established, attached or facilitated by business association such as Indonesian National Arbitration Body which was established by the Indonesian Chamber of Commerce & Industry.

(2) independent type - by independent organization such as the Indonesian Institute Conflict Transformation which was established in 2001 (which and non-government organization working with public on case settlement, dispute system design and capacity building works); also the National Mediation Centre which provides the mediation service of private and commercial cases.

Further, the Supreme Court Regulation No. 2 / 2003 concerning Mediation Procedures Within the Court states that

- Mediation is mandatory for parties in dispute and handling judges;
- Parties in disputes can select listed mediator(s) or outside mediator
- Code of Conduct developed by the Supreme Court is a basis for mediator to conduct his/her tasks;

This project also uncovers that a significant majority of the stakeholders 8 (72.8%) handle consumer complaints, which also involves mediation and arbitration in the case of 6 (54.5%) of stakeholders.

Agencies or Organizations involved in complaints handling:

- YLKI received 40 – 60 complaints monthly.
- Telecommunication Regulatory Authority has a complaint centre to receive the complaints from the public. Indonesian Telecommunications Regulatory Authority-Telecommunication Complaint Centre 10-20 complaints received Telecommunication Complaint Centre-receive complaint, verification, clarification Telephone; Mail/letters; Email
- Sub Directorate of Consumer protection, Directorate of Electricity, Ministry of Energy and Mineral Resources – on electricity

Challenges

Dispute settlement mechanisms for matters related to banking lies mainly on the onus of the banks to provide settlements. In some case, whereby banks are unsuccessful to settle through its mediation procedures, government (Bank Indonesia) would take over, and often settle on behalf of the bank. Further actions or sanctions or reimbursement may not be imposed on the bank. Consumer organization suggests that industry (private banks) should be made accountable for any cost incurred by BI (using public fund) to settle their cases.

3.4 CONSUMER PROTECTION PROGRAMMES, INITIATIVES AND BEST PRACTICES

3.4.1 Programmes and Initiatives

Important initiatives by the government and the society in general have been the conscious efforts in establishing:

- National Consumer Protection Agency (an independent advisory body).
- Consumer Disputes Settlement Body
- Development of Consumer Disputes Settlement Body throughout the country to ensure access to redress.
- Development of consumer organizations such as YLKI.

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 and replicability, 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 following sub-sections summarize some forms of CP Programs that have been successfully implemented by various stakeholders in Indonesia, which were mapped through the General Survey.

3.4.2.1 Consumer Protection Institutional Structures

- National Consumer Protection Agency
- Consumer Dispute Settlement Body

3.4.2.2 CP Monitoring Activities

- The National Consumer Protection Agency issues Public Service Announcements/Alerts on expired products
- Indonesian Telecommunication Regulatory Authority - monitoring service of quality standards

3.4.2.3 Planning and Promotion Activities

- Indonesian Telecommunications Regulatory Authority - Socialization & Public consultation
- Ministry of Health Promotion – Health Services through Health Promotion Centre
- Supervisory Division, Indonesia Medical Council - socialization

3.4.2.4 Research and Development Activities

- Ministry of Environment - Deputy of Standardization Technology & Cleaner Production - Technical analysis of eco-friendly claims
- Wahana Lingkungan Hidup Indonesia (WALHI)- Ecology Research 70 areas in Indonesia
- Jakarta Water Supply Regulatory Body - Survey about the level at consumer satisfaction

3.4.2.5 Lobbying Activities

- Wahana Lingkungan Hidup Indonesia (WALHI) - Environmental Law (Law No. 32/2009) - Prepared draft of implement
- Consumer Dispute Settlement Body (CDSB) - Encourage awareness at local government in consumer protection
- National Consumer Protection Agency - Lobbying to the finance department to enact leasing regulation
- ICT Watch's Healthy Internet - Programs were adopted by government (become government program)

3.4.2.6 Joint Activities

- Consumer Dispute Settlement Body - Joint activities with association at retail companies -making posters
- National Consumer Protection Agency - Joint activities with association at retail companies

3.4.2.7 Standards Development Activities

Indonesian Medical Council – Development of Medical Regulation by Physicians, Dentists, Ministry of Education, Ministry of Health (The standards applied and monitored).

3.4.2.8 Consumer Education and Awareness Programs

Almost all of the government agencies who responded to the GS undertake consumer education awareness programs for their target groups, which include consumers, producers and the public.

- Bank Indonesia - a program on Money Laundering, Bank Literacy Programs, produced comics and movies to promote consumer education related to banking, use of credit card and the risks
- Indonesian Medical Council Socialization of Medical Practices Law - organized for Public, physician, dentist, hospital association
- Jakarta Water Supply Regulatory Body - Consumer Dialogue Forum for consumers to learn on the implications at tariff increase

3.4.2.9 Capacity Building and Training Activities

- Complaints handling, mediation, redress
- Consumer advocacy through legal instruments (litigation)
- Consumer behaviour monitoring
- Online business; Healthy Internet (how to prevent from spam, virus); Privacy and security for end users; The use of social media in self improvement; Any other ICT related issue

3.4.2.10 Other Best Practices to be explored by the Indonesia's Stakeholders

During the course of KIIs and RTD, recommendations were also made by the participating stakeholders to emulate or study other specific programs or initiatives carried out in other countries that might be relevant to Indonesia. These include:

- Malaysia's "Discount " guidelines (the Retails Associations)
- FOMCA HPM / 3K Programs on nation-wide consumer education and awareness (NCPA)
- Singapore – Tourist complaints handling (Directorate for Consumer Protection)
- MOU FOMCA and CASE to facilitate cross-border redress
- Tribunal for Small Claims-Malaysia
- Australian Consumer Protection Agency on Competition
- Australian Prudential Regulation Authority

- Insurance Organization of Indonesia to study mechanism for identification of certified agents offering or issuing credit cards, to reduce fraud and counterfeit problems (AKKI)

3.5 CHALLENGES RELATED TO IMPLEMENTATION OF CONSUMER PROTECTION

From the General Survey conducted, two challenges were reflected:

- Many products in domestic market are still under standard, and there is insufficient fund for product testing
- The weakness in CDSB and Banking Mediation in giving final ruling, since its approach is mainly mediating

Others that were highlighted include:

- Lack of accountability and capacity for most of entrepreneurs to adopt the principles and concepts of consumer protection
- Difficulties in enforcing laws
- Lack of trained, experienced and qualified personnel (for example, a mediator should have a basic law degree)
- Absence of initiatives or programs that could help enhance consumer protection such as a credit counselling and management agency, and hospital accreditation program to enhance assurance of quality services

4. NEEDS ASSESSMENT FOR CONSUMER PROTECTION

4.1 ANALYSIS OF SYSTEM, INSTITUTIONAL AND HUMAN RESOURCE CAPACITY GAPS

The analysis on human and institutional capacity gaps was carried based on the General Survey completed by a total of 11 stakeholders in Indonesia that were specifically identified, based on their involvement in consumer protection and specific consumer areas.

Five (45%) of the stakeholders participated in the General Survey reported that they have divisions/department/unit with assigned staff with technical capacity for consumer protection. In addition, 4 (36.4%) of the stakeholders reported that they did not have a specific unit, but, have assigned technical staff for consumer protection.

From the General Survey, it was also found that nine (81.8%) of the stakeholders employed full time paid staff while three stakeholders had part time paid staff. Two (18.2%) of the stakeholders had the services of paid volunteers and three (27.3%) used consultants. All the stakeholders use Bahasa Indonesia for their day to day operations. All stakeholders have the capacity to perform reviews on and monitor relevant legislation.

Five (45%) of stakeholders also have the capacity to provide training and carry out R&D. WALHI and ICT Watch also have the capacity to mobilize citizens and carry out campaigns for particular issues.

Government, NGOs and other agencies utilized wide range of printed and popular education materials for consumer programs. CDSB also uses posters and leaflets were successful in informing the public about the existence of the redress facility. However, government agencies and NGOs did not indicate whether their materials were effective in raising consumer awareness. Some of the stakeholders also have the relevant capacity to develop, promote and monitor Standards. The Ministry of Environment is involved in the development of eco-labelling for products. Jakarta Water Supply Regulatory Body has carried out the programs stated as 'Standards Course Development' such as the cost of water production according to standards. YLKI also has the capacity to conduct product testing on contamination of drinking water and heavy metals in cosmetics.

However, most stakeholders are not aware of any particular codes of conducts to promote ethical businesses. Six out of the 11 stakeholders are not aware about the price control mechanisms for essential goods and services.

Based on the General Survey conducted, it was found that all stakeholders are aware of principle Consumer Protection Law. YLKI and Indonesia Medical Council, in particular, were found to have high needs for capacity building assistance in

- Monitoring and enforcement of laws on professional services,
- monitoring compliance of codes of conducts related to legal and medical professions,

- best practices in redress mechanism for medico-legal cases,
- establishing institutional structures for consumer protection and professional services

More than half of the stakeholders participated in the GS reported facing a medium level of difficulty in implementing consumer protection activities and programs. Among the difficulties they face are:

- Inadequate laws
- Inadequate qualified and experienced Staff
- Inadequate number of staff
- Inadequate finances
- Inadequate access to training

From the General Survey, Key Informant Interviews and roundtable discussions, there are specific issues related to the above difficulties.

4.1.1 Laws

Due to evolving consumer needs and business natures, there is a need to amendment or review certain provisions under the Consumer Protection Law. NCPA is studying the possibility of having separate consumer protection laws for goods and services as they may be some differences in manners how they affect consumers and how they are used by consumers. NCPA is also looking at the possibility of amending the definition of “consumers”. In the current Consumer Protection Law, Article 1(2) “Consumer is each individual user of goods and/or services available in society, for the benefit of them-selves, family members, other people, and other living creatures and which are not for trading”. The term “and which are not for trading” is the area of concern in the application of businesses as “consumers”.

In order to increase efficiency in dispute settlement mechanisms to reach wider coverage areas and to enhance accessibility of consumers to redress, the Ministry of Trade and Industry is looking into revising the Law to ensure that CDSB is established in every district, through the empowerment of Governors or local governments.

Others areas of regulations or rules that are suggested relevant to Indonesia to ensure enhance consumer protection includes:

- Cigarette or tobacco regulations – to control or prohibit marketing of cigarette or tobacco to minors, revise Health Law on the missing provision on Tobacco⁶¹
- Cyber Law
- Law on Cross-border transactions and redress

4.1.2 Experienced and Qualified Staff

In efforts to increase the current number of CDSB in the country, Directorate of Consumer Empowerment would need experience and skills personnel in each district, who should at least

⁶¹ Farouk Arnaz, Anita Rachman & Dessy Sagita | October 19, 2010 Police: Omission of Tobacco Clause in Health Law Not a Smoking Gun <http://www.thejakartaglobe.com/home/police-omission-of-tobacco-clause-in-health-law-not-a-smoking-gun/402232>

hold a Law degree and have people-skills to deals with consumers and entrepreneurs. MTI is aiming at establishing five CDSB per year to have establishments of about 400 CDSB to be placed in every district throughout the country.

In health sector, certified and qualified health staffs are still low, particularly in dealing with cases or issues related to women and children. Yayasan Kesehatan Perempuan suggested that qualified doctors or licensed medical practitioners should perform all surgical procedures, whether major or minor, particularly abortion⁶², due to critical practices of unsafe abortion⁶³. Currently, due to the sensitivity of issues surrounding family planning and religion, women often resorted to unlicensed practitioners. The National Commission for Child Protection (NCCP) also requires staff with experience related consumer protection and children. In order to provide better service, the Commission would like to have qualified staff to mend specific “Desk” functions such as “Desk of Tobacco Impact” or “Desk of Toy Safety” and have the necessary experience and skills to deal with children and children’s issues.

4.1.3 Finances

Lack of finances is commonly reported. Directorate of Consumer Empowerment has very small budget to conduct consumer education programs. Nonetheless, with the small budget most stakeholders are still able to carry out certain number of programs. Limited budget also hampers the capacity to acquire skilled and experienced personnel, as well as other expert services.

4.1.4 Access to Training

Access to training or capacity building is also limited by the capacity to pay for the services or to attend training if they are conducted outside their location that requires coverage of transport, accommodation, etc. In addition, knowledge and awareness on types and providers of training or programs related to their areas of work is also limited.

4.1.5 Access to Experts

The National Commission for Child Protection requires researchers and experts to provide professionals inputs and research capacities to look into issues and produce scientific or technical papers related to children (minors), consumer behaviour, products and the impact of policy directions on children or other vulnerable groups. Apart from the limited finances, NCCP also needs to develop collaborative works with researchers. Currently, NCCP is unaware of any researchers or experts in the country or within the region who can conduct technical study on impact of products and services on children of Indonesia.

4.1.6 Inter-Agency Coordination

Interestingly, YLKI and WALHI do not seem to hold joint consumer activities with local authorities or government. There is also a need for Indonesian Family Planning Association,

⁶² May also be found among married women due to poverty, unplanned pregnancy, timing and career conflicts; others may also be due to rape, incest, health complications.

⁶³ May be related to unqualified practitioners, or improper equipment or medical devices.

Ministry of Health and Ministry of Women Empowerment and Child Protection to enhance their cooperation to ensure protection of women and children.

4.2 CAPACITY BUILDING NEEDS AND STRATEGIC THRUSTS

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 programs. Six main constraints were identified as the potential areas for capacity building needs in CP in Indonesia as discussed in Section 4.1.

Generally, the CBN of stakeholders in Indonesia 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 programs 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 programs (e.g. price monitoring and market surveillance)
- Research on existing consumer protection laws to cover emerging issues
- Awareness and educational programs
- Consumer issues impacting on women

4.2.2 Enforcement

Enforcement of Consumer Protection in Indonesia takes effect in two main forms:⁶⁴

- Social Enforcement
 - Conception of consumer protection rules and regulation, especially law enforcement provision;
 - the Society (consumer, entrepreneur, and law enforcement officers) through education;
 - socialization and Publication;
- Law Enforcement

⁶⁴ Based on information published by the Ministry of Trade and Industry

- Market surveillance and inspection of goods and services;
- Preparation of consumer protection law enforcement officers;
- Facilitation of consumer's complaints (through mediation and conciliation);
- Enhancement of CDSB;
- Case analysis and settlement.

Capacity building for enforcement be provided in these areas:

- Best practice for enforcing laws/codes of conducts that protect consumers
- Monitoring compliance to laws/codes of conduct
- Information technology management
- Good standard development practices related to quality and safety standards
- Training enforcement staff on consumer issues (e.g. identification of fraud, counterfeit products, fair trade laws, price fixing, E-commerce etc.)

4.2.3 Redress Mechanism

- Enhance development of CDSB and civil society organisations
- Enhance effective redress mechanisms among industry players
- Information technology management for complaint handling

4.2.4 Implementing Agencies on CP

- Developing Management and Leadership skills and knowledge in all relevant agencies on CP and consumer issues
- Training and exposing all relevant agencies' staff on consumer issues (e.g. identification of fraud, counterfeit products, fair trade laws, price fixing, E-commerce etc.)

4.2.4.1 ACCP focal point

The Directorate of Consumer Empowerment, as Indonesia's focal points for ACCP, plays vital role in moving the CP agenda forward in the country. Along with the ASEAN Secretariat (CCPID) to:

- 1) Enhance role of ACCP as a platform for encourage exchange of information and evaluation mechanisms
- 2) Continue and further enhance the capacity of ASEC to provide inputs and share information from other platforms for ACCP to carry out their working group activities
- 3) Provide training or study visits on mediation, and dispute settlement mechanism study visit
- 4) Establish Specific Platform for addressing "Children as Consumers" at domestic and regional level
- 5) Develop specific programs or initiatives to address issues related to children being targeted for products or marketing or advertising, (such as cigarettes, toys, junk food, fast food, pornography)

- 6) Enhance capacity of AMSs to adopt specific recognition nationally and regionally on the rights of children as consumers
- 7) Enhance promotion and adoption of ISO26000 among all entrepreneurs
- 8) Establish collaboration with experts for research on impact of products on children
- 9) Develop ASEAN Code of Conduct for marketing to children
- 10) Enhance understanding of stakeholders in AMSs on ASEAN initiatives such as the ASEAN Multi-Sectoral Framework on Climate Change and Food Security (AFCC), Sustainable Forest Management (SFM).
- 11) Enhance capacity of ASEAN in providing space for NGO's to voice out in ASEAN – A common forum by ASEAN with NGO on Consumer Protection

4.2.4.2 Inter-agency coordination

In order to enhance inter-agency coordination to promote CP, Indonesia would need to look into:

- Enhancing the role of NCPA to implement and coordinate consumer protection agenda
- Establishing legal and institutional mechanisms for consumer representation within the various agencies and authorities
- Increased participation of consumer-based NGO to be part of Working Groups, Technical Committee or Task Force
- Continue to develop consumer organizations (government linked agencies, NGOs, independent)

4.2.4.3 Other stakeholders

Generally, in order to overcome the challenges in consumer protection implementation in Indonesia, all stakeholders participated in this project require assistance in the areas as mentioned in Section 4.2.1 to Section 4.2.4.

4.2.5 Forms of Assistance

The following types of assistance were most commonly preferred by the stakeholders in Indonesia (in the order of most preferred)

- 1) Training on consumer specific area
- 2) Twinning or partnership with agencies or institutions within ASEAN
- 3) Training on management/leadership
- 4) Staff exchanges/Secondment
- 5) Training on fund-raising
- 6) Experts
- 7) Study and exposure visits
- 8) Certified programs on consumer studies (Diploma, Degree)
- 9) Networking assistance
- 10) Seminars/Workshops/Forum/Symposium
- 11) Internship

5. RECOMMENDATIONS FOR CAPACITY BUILDING ON CONSUMER PROTECTION

5.1 CAPACITY BUILDING ROADMAP AND IMPLEMENTATION PLAN

To further enhance the development of ASEAN Economic Community and regional market integration, effective channelling of resources and efforts for the increased capacity building needs in CP, through the ACCP focal points, is vital in order to continuously ensure tangible outcomes of consumer protection in nationally and in the ASEAN region.

With reference to the national Implementation Plan (Table 5.1), the roadmap for capacity building in consumer protection for Indonesia focuses on two main thrusts:

1. Advancing and Prioritizing Consumer Protection through the Directorate of Consumer Empowerment.
2. Promoting Consumer Protection Agenda through all relevant stakeholders.

1. Advancing Consumer Protection through the Directorate of Consumer Empowerment

Strategic Objective: Enhancing the relevance of the Consumer Protection Law and its Implementation Plan

Action

- i) Enhance capacity of Directorate of Consumer Empowerment to review, study and amend Consumer Protection Law
 - On the implication of having separate Consumer Protection Law for “goods” and “services”
 - Re-Defining the term of “Consumers”
 - CDSB (role of central government and provincial governments)
 - Decentralization of CDSB – to change centralized to decentralized type of government, which provide regional autonomy to provide access to consumer redress in every district
- ii) Enhance implementing capacity of NCPA – Currently, recommendations made to the President by NCPA is not necessarily implemented at ministerial levels. NCPA is currently playing more consumer education than policy recommendations.

2. Promoting Consumer Protection Agenda through all Relevant Stakeholders

Action

- i) Enhance the capacity to establish more CDSB throughout the country (currently at 54 to ~400, at 4 CDSB per year)
- ii) Enhance the capacity of DCP to activate non-active non-government foundations and establish new ones to help support DCP’s activities and programs

- iii) Provide training on consumer areas
 - a. Financial and Consumer credit (Australian CP Competition Agency, Australian Prudential Regulation Authority-APRA)
 - b. “Contract Standards”
 - c. product Safety (LPG-standards)
- iv) Government has crucial role in Consumer Education – Improved consultation mechanisms with NGO
- v) Enhance capacity of relevant stakeholders to perform review on the Health Policy- no specific provisions for children, on tobacco and abortion.
- vi) Develop and enhance capacity relevant stakeholders to deal with and understand consumer protection
- vii) Enhance capacity to increase budget for CP activities through fund-raising
- viii) Coordinate ministries to educate from School level and academic institution to conduct more research and development, and develop curriculum and certified degree program on consumer protection

Other Specific Action for Specific Stakeholders on:

Product Safety, liability & Labelling

Action

- i) Enhance involvement of industrial players to establish complaints handling department (Indonesian Retailers Association)
- ii) Enhance management and capacity building of small retailers in CP
- iii) Enhance capacity of government and regulators to organize traditional markets and enhanced competitive and standards compliance capacity
- iv) Support enhancement of government enforcement program on Product Safety and Labelling
- v) Support development of Trust Marks initiative
- vi) Provide training and awareness on ISO 26000 for entrepreneurs
- vii) Support development of Guidelines for “Discount Practices” for retailers (to learn from Malaysia) for the Retailers Association)

Consumer Credit & Banking

Action

- i) Enhance responsibility and accountability of banks and non-bank institutions to handle and resolve complaints
- ii) Enhance independence of Financial Mediation Bureau, whereby the burden on government to settle on behalf of the private banking or non-banking institution should be minimized.

- iii) Enhance Data management and acquisition on Finance and Credits (real time data/info / cases)
- iv) Enhance capacity and coordination of government and NGO's to conduct study on financial policies- For instance, in the credit card minimum payment, decision on 3% minimum payment was raised to 10% upon pressure from consumer organization to reduce the long-term burden the consumer, profit-making of banks
- v) Enhance management of consumer data (application, processing, credit reference, standard identification card or social security number)
- vi) Enhance the capacity to implement "chip" cards programs and infrastructure to tackle counterfeiting and fraud
- vii) Support government to establish financial counselling agency (like the AKPK Malaysia⁶⁵) Enhance awareness of consumers on "unauthorized credit issuers and settlers"
- viii) Support the relevant stakeholders capacity to conduct study on the application of Bankruptcy legislation

Other specific capacity building needs should also be carried out on areas as mentioned in Section 4.1 of this report.

⁶⁵ Credit Counseling and Management Agency-Malaysia, set-up through the initiative of the Bank Negara (the Central Bank of Malaysia). Website: <http://www.akpk.org.my/>

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

FOCUS AREAS	STRATEGIC THRUST AREAS		
	SHORT TERM 2011	MEDIUM TERM 2011-2013	LONG TERM 2011-2015
NATIONAL CONSUMER PROTECTION POLICY	<ul style="list-style-type: none"> ▪ Indonesia to develop national consumer plans. ▪ Identify competencies required. ▪ Establish policy framework to determine Indonesia's approach to consumer issues 	<ul style="list-style-type: none"> ▪ Draft National Consumer policy ▪ Implement National Consumer Policy ▪ Consultations with all relevant stakeholders ▪ 	<ul style="list-style-type: none"> ▪ Sensitize and popularize National Consumer Policy
CONSUMER MASTER PLAN	Formulate consumer master plan. Establish national steering committees	<ul style="list-style-type: none"> ▪ Implementation milestones identified 	
PRINCIPAL CONSUMER PROTECTION LAW	<ul style="list-style-type: none"> ▪ Identify the gaps in existing legal regime for Consumer Protection Nationally ▪ Amend CP Law ▪ Consultations with relevant stakeholders 	<ul style="list-style-type: none"> ▪ Enforcement of CPA ▪ Monitoring of CPA 	<ul style="list-style-type: none"> ▪ Monitoring of CPA

Table 5.1: (continued)

FOCUS AREAS	STRATEGIC THRUST AREAS		
	SHORT TERM 2011	MEDIUM TERM 2011-2015	LONG TERM 2011-2015
ENFORCEMENT AGENCIES	<ul style="list-style-type: none"> ▪ Conduct consultations with enforcement agencies ▪ Enhance NCPA and Directorate of CP coordination with all enforcement agencies 	<ul style="list-style-type: none"> ▪ Build capacity of enforcement agencies on CP issues ▪ Develop enforcement unit under the Directorate of Consumer Protection (DCP) ▪ Increase HR capacity for DCP 	
REDRESS MECHANISMS	<ul style="list-style-type: none"> ▪ Identify gaps in existing redress mechanisms (centralization vs. decentralization) ▪ Identify areas for DCP to support development of local redress institutions (CDSB) ▪ Identify areas of cooperation at ASEAN level 	<ul style="list-style-type: none"> ▪ Establish framework for bi-lateral or multilateral cross-border redress mechanisms 	

Table 5.1: (continued)

FOCUS AREAS	STRATEGIC THRUST AREAS		
	SHORT TERM 2011	MEDIUM TERM 2011-2015	LONG TERM 2011-2015
CONSUMER RELATED LAWS AND STATUTES	<ul style="list-style-type: none"> ▪ Identify gaps in product safety and labelling ▪ Identify gaps in health care services (hospital laws, accreditations, guidelines) ▪ Identify gaps in environment policies (sustainable production and consumption, Local Agenda 21) 	<ul style="list-style-type: none"> ▪ Drafting new relevant laws ▪ Amendments to existing laws 	
ESTABLISHING INSTITUTIONAL MECHANISMS	<ul style="list-style-type: none"> ▪ Enhance capacity of NCPA on consumer areas ▪ Enhance capacity of the Directorate of Consumer Protection ▪ DCP to establish mechanism for National Database Collection on Consumer Injuries ▪ Enhance capacity of DCP to maintain and develop interactive websites 	<ul style="list-style-type: none"> ▪ Continue support for CDSB development in all local districts ▪ Enhance coordination of NCPA with ministerial functions ▪ Support development of CDSB 	

Table 5.1: (continued)

FOCUS AREAS	STRATEGIC THRUST AREAS		
	SHORT TERM 2011	MEDIUM TERM 2011-2013	LONG TERM 2011-2015
HUMAN RESOURCE DEVELOPMENT	<ul style="list-style-type: none"> ▪ Identify human resource needs 	<ul style="list-style-type: none"> ▪ Develop HR Development programs 	<ul style="list-style-type: none"> ▪ Upgrade HR capacity to meet emerging needs
PROGRAMS FOR CORE CONSUMER AREAS	<ul style="list-style-type: none"> ▪ Enhance compliance of industry with national standards for products and services 	<ul style="list-style-type: none"> ▪ 	
CONSUMER EDUCATION AND AWARENESS	<ul style="list-style-type: none"> ▪ Identify best practices 	<ul style="list-style-type: none"> ▪ Develop formal and informal consumer education programs 	<ul style="list-style-type: none"> ▪ Assess effectiveness of consumer education programs
	<ul style="list-style-type: none"> ▪ Develop National Consumer education Policy ▪ Promote establishment of consumer clubs in schools and university or colleges 	<ul style="list-style-type: none"> ▪ Integrate CP subjects in school curriculum 	

Table 5.1: (continued)

FOCUS AREAS	STRATEGIC THRUST AREAS		
	SHORT TERM 2011	MEDIUM TERM 2011-2013	LONG TERM 2011-2015
CONSUMER NGO DEVELOPMENT / INDUSTRY	<ul style="list-style-type: none"> ▪ Support programs by consumer organizations ▪ Identify relevant emerging consumer issues ▪ Identify consumer protection practices in industry ▪ Identify programs for CP integration in industry ▪ Enhance capacity to develop and maintain information exchange through interactive websites 	<ul style="list-style-type: none"> ▪ Support establishment of new consumer organizations for specific consumer areas ▪ Promote adoption of ISO26000 among industry players ▪ Establish consumer forum at national and district levels 	<ul style="list-style-type: none"> ▪ Full adoption of ISO26000 by all stakeholders
PARTICIPATION IN CONSUMER PROTECTION	<ul style="list-style-type: none"> ▪ Enhance support for leadership and management development in CP ▪ Identify areas for participation for all stakeholders 		

Table 5.1: (continued)

FOCUS AREAS	STRATEGIC THRUST AREAS		
	SHORT TERM 2011	MEDIUM TERM 2011-2013	LONG TERM 2011-2015
IMPLEMENTATION OF INDUSTRY CODES OF CONDUCT	<ul style="list-style-type: none"> ▪ Establish monitoring mechanisms ▪ Support industry to develop codes of conduct 	<ul style="list-style-type: none"> ▪ Establish mechanisms for monitoring of industrial conducts and impact ▪ Support promotion for industry codes of conduct at ASEAN level 	
WOMEN AND CONSUMER PROTECTION	<ul style="list-style-type: none"> ▪ Identify areas of concern for women consumers ▪ Conduct study on impact of product safety and services on women 	<ul style="list-style-type: none"> ▪ Integrate gender dimension into consumer policies and legislations ▪ Amend relevant laws or policies ▪ Conduct study on the impact of policies and legislation on women 	<ul style="list-style-type: none"> ▪ Consolidate women's participation at all levels

Table 5.1: (continued)

FOCUS AREAS	STRATEGIC THRUST AREAS		
	SHORT TERM 2011	MEDIUM TERM 2011-2013	LONG TERM 2011-2015
PROTECTION OF CHILDREN AS CONSUMERS	<ul style="list-style-type: none"> ▪ Identify areas of concern for children consumers ▪ Conduct study on the impact of products and services on Indonesian children ▪ Enhance capacity in dealing with consumer issues and children ▪ Enhance coordination with relevant agencies related to children 	<ul style="list-style-type: none"> ▪ Establish national guidelines on marketing to children ▪ Establish mandatory laws on product safety or services for children – toys, cigarettes, junk food, advertisement, etc) ▪ Monitor market conducts and activities (advertising and sale) ▪ Establish children consumer unit under DCP 	<ul style="list-style-type: none"> ▪ Establish agency or council for Children Consumers of Indonesia
ADVOCACY	<ul style="list-style-type: none"> ▪ Advocate for children protection at ASEAN level ▪ Support regional study on impact of products and services on children 	<ul style="list-style-type: none"> ▪ Support establishment of regional guidelines on marketing to children 	<ul style="list-style-type: none"> ▪ Support establishment of Children Consumer Council at ASEAN level
FINANCE	<ul style="list-style-type: none"> ▪ Identify plans and activities for consumer protection ▪ Identify agency or body responsible for consumer protection ▪ Establish national budget lines for consumer protection programs 	<ul style="list-style-type: none"> ▪ Implement and evaluate plans and activities ▪ Identify areas for expansion 	

5.2 PRIORITISATION OF STRATEGIES AND FOCUS AREAS

At present, there is a strong realization for the needs of consumer protection in Indonesia 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.

During the ACCP Workshop (2010), the Indonesia's ACCP focal points⁶⁶ identified five immediate focus areas to be considered for capacity building on consumer protection. These five areas are (in the order of priority):

1. To review the “White Paper” (Kertas Putih) related to Consumer Policy, which is to be carried within 2011
2. To study and break down consumer protection areas under contained under the 5-year Strategy Plan. In particular, to carry out activities identified in each relevant Milestone, such as to achieve a target of five CDSB establishments per year; to generate five regulations or standards or relevant policies per year; to conduct a certain targeted number education and training programs or forum per year.
3. To carry out necessary amendments on the CPA, which is an ongoing process, and being tabled in the parliament. This activity also linked to the ongoing process of mapping regulatory agencies.
4. To develop a national database on consumer complaints, which linked to various regulatory and enforcement agencies, independent consumer complaints centres and CDSB. In addition, to develop and maintain interactive and up-to-date national website, with links to key agencies on consumer pro enhancing infrastructural development for CP, including establishment of a Price Control Council, which is already specified under the Price Control Law, along with enhancing leadership and management capacities and knowledge on CP among senior ministers; as well as emulating public-private partnership and NGO development as carried out in Malaysia.
5. Enhancing enforcement capacities of relevant regulatory agencies through centralized coordination, and improving the redress mechanisms, emulating examples of best practices such as the Consumer Claims Tribunal of Malaysia.

As described in Chapter 4, the constraints in implementing consumer protection in Indonesia are related to:

- a. Inadequate laws for CP due to the gaps in the existing laws.
- b. Inadequate number of qualified and experienced staff.
- c. Budget constraints.
- d. Limited access to trainings.
- e. Limited access to expert.
- f. Lack of coordination among related institutions.

⁶⁶ Identified during the ACCP Workshop on 30 November – 1 December 2010 in Kuala Lumpur, Malaysia.

As such, the capacity building would focus not only on the imperfect actual operating context (AOC) or system which includes not only the legal instruments but also aspects of law enforcement and the limited institutional infrastructure for consumer protection, that are yet to be optimized to handle issues of consumer protection in both central and provinces in the country.⁶⁷

Meanwhile the limited access to trainings and to experts on consumer protection has been a constraint to implement consumer protection in Indonesia. This constraint, however, could be overcome by adopting and adjusting the existing training programs to the current condition in Indonesia. Additionally, training programs could be organised by inviting experts from overseas to guide and train the human resources on consumer protection in Indonesia and sending potential staff to participate in domestic and overseas trainings.⁶⁸

Table 5.2 summarizes the prioritization of strategies for the emerging scenario for consumer protection in Indonesia is rated as high, medium or low and is examined based on the following criteria, which are also primarily based on the responses and suggestions obtained during the key informant interviews:

- **Urgency:** this is a priority issue that needs to be addressed in the next 1-3 years, based on the suggestions received during the key informant interviews, as matters related to ongoing or current intentions and actions.
- **Potential Impact:** Addressing this critical issue will likely have a significant impact on one or more specific populations. There is also reason to believe this can successfully address consumer protection issue.
- **Actionable/Feasible:** there are opportunities for action to address the critical issue related to consumer protection. There is also room to make meaningful improvement on the issue.
- **Resources:** Resources (funds, staff, and expertise) are either readily available or likely resources can be obtained to address the critical issue. Resources may be obtainable through the state and community members to work on the issue. Or resources can be acquired elsewhere.
- **Community Readiness:** A critical issue identified as important by the community. People in the community are interested in the issue. There is community momentum to move this initiative forward.
- **Integration:** There is opportunity for collaboration. There is opportunity to build on existing initiatives. There is a tendency to duplicate efforts.

⁶⁷ The Directorate Consumer Empowerment, Ministry of Trade Republic of Indonesia. 14 February 2011.

⁶⁸ Suggested strategies by the Directorate Consumer Empowerment, Ministry of Trade Republic of Indonesia. 14 February 2011.

Table 5.2: Recommended Priorities and Focus Areas in Consumer Protection.

Strategies	Urgency	Potential Impact	Actionable/ Feasible	Resources	Community Readiness	Integration
<i>Strategy 1:</i> Enhancing the relevance of the Consumer Protection Law and its Implementation Plan	high	high	high	medium	medium	medium
<i>Strategy 2:</i> Improving the institutional and regulatory framework for Consumer Protection	medium	medium	medium	medium	medium	medium
<i>Strategy 3:</i> Promoting and building awareness on Consumer Protection to all relevant government, regulatory agencies, and policy-makers	medium	medium	medium	medium	medium	medium
<i>Strategy 4:</i> Educate consumers and raise awareness on consumer rights and issues	medium	medium	medium	medium	medium	medium
<i>Strategy 5:</i> Support implementation and enforcement of consumer protection programs through strengthened infrastructure for CP	medium	medium	medium	medium	medium	medium

From the study, specific focus areas for capacity development in selected consumer areas were identified, and recommended for some relevant stakeholders. These areas are covered below.

Product Safety

- YLKI
- CDSB
- Indonesian Telecommunications Regulatory Authority,
- Jakarta Water Supply Regulatory Body
- National Consumer Protection Agency
 - a. Development, implementation and evaluation of consumer protection policies on product safety and labelling
 - b. Monitoring and enforcement of laws/codes of conduct and mandatory standards on product safety and labelling
 - c. Training on Product labelling (use of green technology and interpretation)
 - d. Establishment of a redress system (e.g. handling complaints on product safety and labelling)
 - e. Good standards development practices to include participation of non-government consumer groups
 - f. Research & Development (R&D) on product safety and labelling, especially the impact of products and product marketing or advertisement on children.
 - g. Training on development of standards and monitoring compliance

- h. Training on Risk Assessment
- i. Development, implementation and assessment of consumer protection programs on product safety and labelling
- j. Awareness and educational programs on product safety and labelling
- k. Networking and stakeholder engagement on consumer protection, product safety and labelling

Phone, Internet Services and E-Commerce

- YLKI
- ICT Watch
- Indonesian Telecommunications Regulatory Authority
 - i. Development, implementation and evaluation of consumer protection policies on phone and Internet services & E-commerce
 - ii. Monitoring and enforcement of laws/codes of conduct and mandatory standards on phone and Internet services & E-commerce
 - iii. Good standards development practices on phone and Internet services & E-commerce
 - iv. Training on consumer privacy and security
 - v. Strengthen the mechanisms of complaint handling on phone and Internet services & E-commerce
 - vi. Training on Best practices in redress mechanisms for consumer protection on phone and Internet services & E-commerce
 - vii. Training on E-commerce and ethics for consumers and merchants
 - viii. Technical assistance on consumer protection with regard to phone and Internet services & E-commerce
 - ix. Development, implementation and assessment of consumer protection programs on phone and Internet services & E-commerce

The least priorities were indicated for “*networking and stakeholder engagement*” and “*educational programs on consumer protection with regard to phone, internet services and E-commerce*”.

Consumer Credit and Banking

- Bank Indonesia
- YLKI
 - i) Development, implementation and evaluation of consumer protection policies on consumer credit and banking
 - ii) Good standards development practices on consumer credit and banking
 - iii) Awareness and educational programs on consumer credit and banking
 - iv) Training on Best practices on access to consumer credit
 - v) Development, implementation and assessment of consumer programs on consumer credit and banking

Environment

- YLKI
 - WALHI
 - Jakarta Water Supply
 - MOE
- i) Good standards development practices related to environment and consumer protection
 - ii) Development, implementation and evaluation of consumer protection policies on environment
 - iii) Monitoring and enforcement of laws/codes of conduct on environmental consumer services
 - iv) Training on Clean development mechanisms
 - v) Training on Environmentally preferable products and environmental labelling
 - vi) Development, implementation and evaluation of consumer protection programs on environment

Healthcare services

- Yayasan Kesehatan Perempuan
 - YLKI
 - NCPA
- i) Increase health services for women
 - ii) Education on family planning
 - iii) Education on reproductive health and risks and rights of women
 - iv) Enhance capacity to advocate for women's rights as consumers (cosmetics, medical services)
 - v) Improve access (location) for healthcare
 - vi) Develop program to certify the qualifications of health service providers (individuals, midwives) to women
 - vii) Enhance coordination among MoH, Ministry of Women's Empowerment and Children's protection, the National Family Planning Coordinating Board of Indonesia

Professional services

- YLKI
 - Indonesian Medical Council
 - NCPA
 - Other stakeholders also have very little knowledge and exposure to the practices of professional services
- i) Monitoring compliance of codes of conduct and ethical practices related to the legal and medical professional
 - ii) Best practices in redress mechanisms to handle medical and legal services cases

- iii) Establishment of a redress system (e.g. handling complaints) on professional services
- iv) Monitoring and enforcement of laws/codes of conduct on professional services
- v) Development, implementation and assessment of consumer protection programs on professional services
- vi) Establishment of institutional structures for consumer protection on professional services
- vii) Educational programs on consumer protection and professional services
- viii) Information management system (e.g. database management)
- ix) Awareness and educational programs on professional services
- x) Networking and stakeholder engagement on professional services

6. CONCLUSION

In order to further enhance Consumer Protection in Indonesia through Strategic Objective 1: Enhancing the relevance of the Consumer Protection Law and its Implementation Plan, the current Consumer Protection Law needs to be reviewed due to the complexities that exist, not only due to market diversity of products and services, but also the complexities of consumer issues and needs. The unique culture and religious, an extensive use of the national language (Bahasa Indonesia) in the country, particularly in institutional operation suggested language should be considered when providing assistance or materials for capacity building. In addition, to ensure effective implementation of ADR in Indonesia, the presence of strong law enforcement (non discriminative, swift & sure law enforcement, needs to be supported).

Other capacity building recommendations for the government of Indonesia and ASEAN to consider are to:

- Provide technical support to advance the Consumer protection Law and policy in Indonesia
- Support funding through fund raising mechanism, or collaborations
- Provide technical support to enhance capacity of NCPA and Banking Mediation to make decision and award.
- Provide technical support to conduct policy study on how fines money can be used for consumer education
- Provide support to DCP to enhance development of Consumers Associations
- Improve awareness and knowledge of consumers on rational and appropriate use and prescription of drugs
- Support training programs for enhance skills, knowledge and experience of staff in areas needed, particularly in for CDSB
- Support capacity to understand and manage environmental risk factors
- Support the collection of information to estimate the health status of the population of Indonesia.

At the regional level

- Enhance the initiative to establish a Consumer Protection Agency at the ASEAN level
- Enhance capacity of AMSs to adopt agenda on “Children as Consumers”
- Enhance and support bilateral MOUs between consumer organizations for cross border complaints handling (e.g. CASE and Consumer Coordination Council India and China Consumer Association)
- Support the development of ASEAN Trust Marks

*****end*****

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A: Appendix 1 List of Stakeholders

A) General Survey

Government	Indonesian Medical Council
	Central Bank of Indonesia
	Ministry of Environment - Deputy of Standardization Technology & Cleaner Production
NGOs	Indonesia Consumer Organization
	Wahana Lingkungan Hidup Indonesia (WALHI)
	Indonesian Medical Association
	ICT Watch
Independent Authority or Agency	Jakarta Water Supply Regulatory Body
	Indonesian Telecommunications Regulatory Authority
	Consumer Dispute Settlement Agency (Tribunal Consumer)
	National Consumer Protection Agency

B) Key Informant Interviews

- Radu M Sembiring – Director, Directorate of Consumer Protection, Directorate General of Domestic Trade
- Budi Yasri- Directorate of Consumer Protection, The Ministry of Trade of the Republic of Indonesia
- Muchamad Syahrhan Bhakti – Head, Cooperation Section, Sub Directorate of Cooperation, Information and Publication, Directorate of Consumer Empowerment, Ministry of Trade
- Dr Sutoto M Kes- President, Indonesian Hospital Association
- Dr Wasista Budiwaluyo- Secretary General Sahid Sahirman Memorial Hospital
- Dr Raymond Atje - Head, Department of Economics, Centre For Strategic & International Studies
- Arist Merdeka Sirait – President, National Commission for Child Protection
- Tini Hadad –Chairman, National Consumer Protection Agency
- Franciscus Welirang –Vice Chair, Badan Perlindungan Konsumen Nasional (National Consumer Protection Agency)
- Yuwellis Yunis – Executive Secretary, Badan Perlindungan Konsumen Nasional
- Chairulhadi M Anik - Badan Perlindungan Konsumen Nasional
- Indah Suksmaningsih – Advisory Board Member, YLKI
- Steve Marta – Head, Indonesia Credit Card Association (Asosiasi Kartu Kredit Indonesia)
- Luluk Sumiarso – Director-General, Renewal Energy & Energy Conservation
- Ibu Zoemrotin – Yayasan Kesehatan Perempuan (Women’s Health Foundation)
- Tutum Rahanta, Executive Director, Indonesian Retailer Association

C) *Roundtable Discussion*

- Heru Sutadi – Commissioner, Indonesian Telecommunication Regulatory Authority
- Abdul Haris - Mediator (Jr) Directorate of Investigation and Banking Mediation Investigation Directorate & Banking Mediation
- Hartono - Mediator, Directorate of Investigation and Banking Mediation
- H. Ngargono – Chairman, Institute for Consumer Development & Protection (LP2K)
- Sudaryatmo - Member, Consumer Dispute Settlement Board (BPSK)
- Catherine Corpuz – AADCP II
- Hasduna Putri – CCPID, ASEAN Secretariat
- Ilyani – Board Member, YLKI
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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. Some background readings and data analysis will be required on the Key Informant, the organization and the country before the Interview.

INTERVIEW PROCEDURES & QUESTIONS

PART A

Background

- 1) To begin, we would like to learn more about your roles in this institution. Please share with us how you became involved?
 - a. Has Consumer Protection been one of your areas of interests?
- 2) How do you see the institution's role in relation to "consumer protection" in [COUNTRY]?
- 3) Can you please describe the status of "consumer protection" in this country? Where do you see the level of awareness and governance in [COUNTRY]? What about the people? Or consumers?

Human Resource Planning for Consumer Protection

(General Survey A8)

Our preliminary data shows that your **org/inst/dept/[country]** **[DOES / DOESN'T]** have a [dept/unit/staff/ministry] dealing with Consumer issues.

1. What kinds of planning or strategies does **your org / [country]** have to **[improve / introduce]** Consumer Protection or this situation?
2. What do you foresee the kinds of problems you or **[org/COUNTRY]** will face in implementing these plans and strategies?

Consumer Programs and Activities

(General Survey A14)

From our preliminary Survey, we found out that Your Organization has carried out:

- 1) Consumer related Activities/ Programs/ Campaigns/ such as _____:
We would like to know more about these, in terms of;
What these have achieved? Any Success story you can share?
Probe:
Do you think this can be shared with other ASEAN Member States or other similar Org in the region, to be considered as "Best Practice"?
How can these Activities be improved?

For these kinds of activities, what kinds of Assistance would you require in order to make these activities/programs successful and achieve its goals?

Probe:

Are these Assistance you mentioned, required urgently within this year or next year or later? Where have you sourced for Assistance?

- 2) In implementing Consumer Protection activities and programs in [COUNTRY], our survey on several stakeholders in [COUNTRY], suggest 5 PRIORITY AREAS that [COUNTRY] would have to deal with based on their difficulty levels:

(from General Survey)

i.	
ii	
iii.	
iv.	
v.	

What is your opinion on these 5 priority areas? Could you please share with us you views on these 5 areas of difficulties?

How would you suggest that your organization or [COUNTRY] address these difficulties?

How do you suggest that ASEAN or other ASEAN Member States should assist [COUNTRY] to address these difficulties?

Looking at the ASEAN Economic Community goals by 2015, what kind of short-, medium and long-term capacity building needs assistance do you think should be in place by 2011?

By 2012? By 2013? By 2014?

What would be the goals for Consumer protection in [COUNTRY] that should be achieved by 2015?

Capacity Building Needs in Consumer Protection

(from General survey B1)

For most institutions or organizations in [COUNTRY] (*from our survey*) there seems to be strong needs for assistance to [implement/enforce/monitor/develop] consumer protection policy/laws/organization.

1. Would you please share with us, what your organization or government of [COUNTRY] has planned to [implement/enforce/monitor/develop/etc] consumer protection [policy/laws/organization/programs/redress mechanisms/staff/skills/IT Management]?
2. To do this what specific assistance does your organization/institution/country need? (*with reference to ASEAN Economic Community target by 2015*)
3. From the Survey on any of the following:
 - a. Training
 - b. Manuals & Kits / or Guidelines
 - c. Web-based products
 - d. Networking assistance
 - e. Twinning/partnership
 - f. Seminar/Workshop/Forum/Symposium

- g. Staff exchange
 - h. Study visits
 - i. Experts
 - j. Internship
 - k. Certified programs
 - l. Information technology System
- i. What kinds of [training / a to] are these (specific areas?)
 - ii. Who are you targeting for this activity?
 - iii. How often should these training take place?
 - iv. How and when do you think this kind of capacity building assistance should be channeled and by whom?
 - v. Which do you see should be done nationally, and which should be conducted at the regional level?

Consumer Protection Laws/Policies/Regulations

(from Secondary and General Survey)

1. Our preliminary research shows that a Principal Consumer Protection [Act/ Policy] has not been in [place/reviewed/amended].

Why is this so?

Probe:

What plans do your organization / [COUNTRY] have for this?

If required, what kinds of assistance do you need [to develop (an Act/ Policy) OR to carry out a Review on this Act or Policy]?

How should ASEAN or other Member States or Experts assist you in this?

Redress Mechanisms

From our survey, we noted that [COUNTRY] [does / doesn't] have some forms of mechanisms for consumers to seek redress.

What new developments can we anticipate to improve consumer redress in [COUNTRY]?

What activities/programs/plans does [COUNTRY] have for this?

If required, what kinds of assistance do you need [to develop or improve these redress mechanisms that you mentioned]?

How should ASEAN or other Member States or Experts assist you in this?

CONCLUSION

We have come to the final part of this Interview.

To conclude, could you please share with us the Way Forward for [COUNTRY] to enhance its human and institutional capacities in consumer protection. What would be the key components (Priority Action Areas) that [COUNTRY] should develop in the next 5 years?

Lastly, any Final Thoughts on the issues of consumers, product safety and labelling in [COUNTRY]?

PART B**PRODUCT SAFETY AND LABELING (optional)**

Based on our general survey, there are some kinds of instruments, mechanisms, including laws that have been put in place to ensure safety of consumers through safety regulations and labelling. Some consumer complaints that are common in [COUNTRY] includes:

See SECONDARY DATA

1. How can consumers in [COUNTRY] be further protected against unsafe products?

Probe:

What (if any) is still missing, and need to be develop or improved?

How do you see the level of cooperation among the different agencies, the business sectors and the consumers in embracing safety and labelling requirements for consumer products in [COUNTRY]?

What can be done to improve this? And what will enable consumers to obtain redress for complaints related to product safety and labelling?

Who should play what roles to ensure safety of consumers through proper product labelling and information in [COUNTRY]?

2. From the General Survey that we conducted, various Consumer education programs on Product safety and labelling have been carried out in your [ORGANIZATION / COUNTRY], such as [see general survey]

Could you please share with us any recent development regarding this? What consumer products are covered? How was this program implemented?

Probe:

How can it help consumers in ASEAN?

Any shortcomings or problems that [COUNTRY] may have in implementing this Program?

How can these be overcome?

Capacity Building Needs in Product Safety and Labelling

1. What goal is to be achieved by [COUNTRY] to ensure product safety and mandatory product labelling for consumers in [COUNTRY] by 2015?

2. What should be in place at the regional level by governments of ASEAN, and by business sectors to ensure ASEAN consumers as envisioned by “One Vision, One Identity, One Community” by 2015 achievable?

3. What capacities do you suggest that [COUNTRY] should build in order to achieve these goals and how should ASEAN assist [COUNTRY]?

How specifically can this assistance be channeled to your organization or [COUNTRY]?

Who should provide the assistance?

Do you have any strategic time-frame for these to happen?

(Any probe questions that may be linked to women or environment).

PHONE & INTERNET SERVICES, AND E-COMMERCE (optional)

Based on our general survey, there are some kinds of instruments, mechanisms, including laws that have been put in place to regulate services and products related to E-Commerce, phone and internet.

However, there seems to be some common consumer complaints in [COUNTRY] on services or product related to phone & internet, and E-commerce such as:

See SECONDARY DATA

1. Could you please elaborate on these complaints? How are these handled?
2. From the General Survey that we conducted, we noted that there are / are no complaints procedures in place to deal with complaints such as exorbitant and hidden charges, unsolicited emails and sms, disruptions in services, personal data theft or bogus websites or transactions. How can consumers in [COUNTRY] be further protected against these kinds of unethical practices?
3. In E-commerce, what are the priority areas for consumer protection in [COUNTRY]? How can consumers in [COUNTRY] be protected from fraudulent schemes or compensated?

Probe:

What (if any) is still missing, and need to be develop or improved?

How do you see the level of cooperation among the different agencies, the business sectors and the consumers in embracing E-commerce as well as internet transactions in [COUNTRY]?

What can be done to improve this? And what will enable consumers to obtain redress for complaints related to E-Commerce at the national level and at the regional level?

Who should play what roles to ensure protection of consumers in [COUNTRY] when engaging with cyber transactions?

2. We heard about the ASEAN's intention to establish a form of **“Cross-border redress mechanism”**.

Would you be able to please share with us any recent development regarding this, and how it may be related to E-Commerce?

Probe:

What do you think about this mechanism? How can it help consumers in [COUNTRY] Or ASEAN?

Any shortcomings or problems that [COUNTRY] may have in implementing this system?

How can these be overcome?

What capacity do we need to build nationally and regionally to have this mechanism to be successfully put in place?

3. From our survey, we found out that there is **presence/absence** of coordination among ICT regulatory authority(s), national consumer protection authority and consumer organizations?

How can this be improved for [COUNTRY]? For ASEAN?

How can this be achieved?

Capacity Building Needs in Consumer Protection in Phone, Internet and E-Commerce.

1. What goal is to be achieved by 2015 to ensure consumers in [COUNTRY] feel safe and comfortable to use phone, internet and E-commerce transactions and services?
2. What should be in place at the regional level by governments of ASEAN, and by business sectors to ensure ASEAN consumers as envisioned by “One Vision, One Identity, One Community” by 2015 achievable?
3. What specific capacities do you suggest that [COUNTRY] should build or improve in order to achieve these goals and how should ASEAN assist [COUNTRY] in protecting consumers in [COUNTRY]?
4. How specifically can this assistance be channeled to your organization or [COUNTRY]?
5. Who should provide the assistance?
6. Do you have any strategic time-frame for these to happen?
7. To educate consumers, what kinds of programs should be conducted about phone & Internet services, and E-commerce? Do you know any programs that can be regarded as “best practice” being successfully implemented?

(Any probe questions that may be linked to women or environment).

Other Questions to be considered for Key Informant Interviews

A. Laws (Consumer Protection)

1. Is it challenging for your agency to recruit/get staff, who are able to:
 - i. Draft Consumer Protection Laws;
 - ii. Enforce them; and
 - iii. Undertake awareness programs on Consumer Protection related laws
2. (Only for countries who have a principal Consumer Protection law)
 - i. If reviews of Consumer Protection laws have been done periodically, what were the areas reviewed and why?
 - ii. Were the reviews done with internal expertise or with the assistance of external consultants?
 - iii. 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

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

C. Redress Mechanisms

- i. How does the existing consumer redress mechanisms relevant or benefit consumers in [COUNTRY]?
- ii. What kinds of improvement (if any) should be done to improve these mechanisms?

- iii. What would be an ideal or that can be considered as the best practices in [COUNTRY] when it comes to redress mechanisms?
- iv. Can this promoted elsewhere (among AMS)?
- v. What would be needed to achieve this?

D. Enforcement

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

E. Product Safety

- i. What kind of programs can be promoted to consumers in Indonesia by relevant agencies to enhance awareness on product safety ?
- ii. What are the challenges that [Country] need to overcome in order to successfully implement these programs?
 - Weak laws related to product safety?
 - Insufficient personnel?
 - Lack of capacity to check/carry out inspection?
 - Lack of standards?
 - What are the weaknesses at points of entry?
- iii. How can collaboration among ASEAN Member States and the relevant agencies / stakeholders be enhanced?
- iv. What kinds of redress platforms or mechanisms are suitable for consumers in [COUNTRY] when it comes to dealing with complaints related to product safety and or labelling?

F. E-Commerce

- i. Misuse of Data
 - What are the challenges faced by consumers in your country in this area?
- ii. What are the awareness for redress in e-commerce transactions?
- iii. Are there programs to bridge the Digital Divide?

G. Banking and Finance

- i. Do you think the financial services industry is sufficiently regulated to protect consumers (in your country)? Or
 - Are consumer protection practices of financial institutions adequately regulated? (e.g. measures to prevent predatory lending, illegal collection practices etc.)
- ii. Are consumer satisfied with compliance and dispute handling mechanisms?
- iii. Overdebtedness 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?)
- iv. Are the financial literacy programs for consumers?
- v. Provide some examples of best practices that promote transparency, redress and financial education for consumers.
- vi. Are consumers included in policy dialogue related to financial institutions? Is there a level playing field?

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. (Refer to the appendix)
- 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 Indonesia, and in all ASEAN Member States (AMSs) at the regional level. The Roadmap is planned through necessary steps, strategies and recommendations to enable Indonesia 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 Indonesia 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

Time	Program
8:30 – 9:00 am	Registration
9:00 – 10:00 am	Opening Address Roadmapping Capacity Building Needs on Consumer Protection in ASEAN region <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	Capacity Building Needs on Consumer Protection & Sectoral Impact in [COUNTRY] Short presentation for specific areas. Feedback and discussions from relevant stakeholders <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 Law No. 8/1999

Product Safety and Labelling

Law No. 7/1996 on Food under the National Agency for Drugs and Food Control

Regulation on Food Labelling and Advertising Law No. 69/1999

Regulation 62/M-DAG/PER/12/2009 jo. Nomor 22/M-DAG/PER/5/2010 on the Obligation of Product Labelling

Regulation No. 28/2004 on Food Safety, Quality and Nutrition

Regulation No. 1176/MENKES/PER/III/ 2010 on Notification of Cosmetics

Regulation No. 1184/MENKES/ PER/X/2004 on the Security of Health and Household Equipment

Regulation No. 44/M-DAG/PER/9/2009 on Provision, Distribution, and Control of Hazardous Substances.

Phone & Internet Services, and E-Commerce

Law No. 36/1999 on Telecommunications

Law No. 11/2008 on Information and Electronic Transaction

Regulations No. 52/2000 on Telecommunications Providers

Decrees No. 11-14/2008 concerning Quality of Service Quality of Service for Fixed Wireless Access, Quality of Service for International Network Service, Quality of Service for Mobile Network Service, Quality of Service for Local Network Service, Quality of Service for Long Distance Network Service.

Decree Of The Minister Of Communication And Information Technology No. 29/Per/ M.Kominfo/09/2008 On Certification Of Telecommunication Tools And Equipment

Decree No. Km 3/2001 specifies Technical Requirement Of Telecommunications Equipment And Apparatus.

Decree Of The Minister Of Communication And Information Technology No. 01/Per/ M.Kominfo/01/2009 on Provision Of Premium Messaging Service And Transmission Of Short Messaging Service /SMS To Many Destinations (Broadcast)

Consumer credit and Banking

Law No. 23/1999 on Bank Indonesia

Regulation No. 6/24/PBI/2004 concerning Commercial Banks conducting Business based on Sharia Principles

Regulation No. 6/24/PBI/2004 on Ownership of Banks

Regulation No. 3/10/PBI/2001 concerning The Implementation of Know Your Customer Principles

Regulation No. 7/52/PBI/2005 concerning Operation of Card-Based Payment Instruments

Regulation No. 7/6/PBI/2005 on Transparency of Banking Products Information and the Use of Customer Personal Data

Regulation No: 7/ 8 /PBI/ 2005 on the Debtor Information System.

Regulation No. 7/7/PBI/2005 concerning Resolution Of Customer Complaints

Regulation No 8/5/PBI/2006 on Bank Mediation

Circular Letter No. 8/18/DASP August 23rd, 2006 Concerning: Amendment on the Circular Letter of Bank Indonesia No. 7/60/DASP on Customer Protection and Prudential Principles and Improvement of Security In Operating Card Based Payment Instrument Activities

Environmental Quality and Services

Law No. 18/2008 on Waste Management

Law No. 22/2001 on PT Pertamina, Oil and Gas

Law No. 30/2007 on National Energy

Law No. 30/2009 on Electricity

Law No.7 /2004 on Water Resources

Regulation No. 42/2009 on Water Resource Management

Regulation No. 43/2009 on Ground Water Management

Regulation No. 70/2009 on Energy Conservation

Health care Quality and Services

Law No. 23/1992 on Health

Law No. 36/2009 on Health

Law No. 44/2009 on Hospitals

Law No. 10/1992 on Population Development and the Development of Happy and Prosperous Families

Regulation No. 51/2009 on Pharmaceutical Services

Decree No. 1197/2004 on Standard of Pharmaceutical Care in Hospital

Professional Services

Law No. 2g/2004 on Medical Practices

Law No. 18/2003 on Advocates

Regulation No. 1419/2005 on Medical Practices

Other Laws

Law No. 2/1981 on Legal Metrology

Law No. 5/1999 on Prohibition of Monopolistic Practices and Unfair Business Competition

Law No. 14/2008 on Public Information Disclosure

Law No. 9/1962 on Price Control

Regulation No. 08/M-DAG/Per/3/2010 on Measurement tools, Weight, Length, and Measuring Equipment

Redress Mechanisms

Law No. 30/1999 on Alternative Dispute Resolution (ADR) and Arbitration

Law No. 23/1997 on Environmental Management

Regulation No. 54/2000 on Environmental Dispute Settlement Service Provider

Regulation No. 2 / 2003 concerning Mediation Procedures Within the Court

E: Appendix 5

List of Implementing Agencies for Consumer Laws

Principal Consumer Protection Law

The Directorate of Consumer Empowerment (the Ministry of Trade and Industry)

Product Safety and Labelling

- Directorate of Consumer Empowerment
- Ministry of Agriculture
- Ministry of Health
- Ministry of Trade
- National Agency for Drugs and Food Control
- National Standardisation Body of Indonesia
- Local Government

Phone & Internet Services (PIS) and E-Commerce

- Indonesian Telecommunications Regulatory Authority
- Ministry of Communication And Information Technology
- Directorate of Consumer Empowerment
- Ministry of Trade

Consumer Credit and Banking

- Bank Indonesia
- Ministry of Finance
- Ministry of Housing (Mortgage Policy).

Environmental Quality and Services

- Ministry of Environment
- Ministry of Energy and Mineral Resources
- Ministry of Human Environment (Kementerian Lingkungan Hidup)
- Ministry of Public Works
- Provincial Government and the District/Municipality Government

Health and Healthcare Services

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

Medical Professionals

- Ministry of Health
- Indonesian Medical Council

Legal Professionals

- Ministry of Justice and Human Rights
- Perhimpunan Advokat Indonesia (Indonesian Advocates Association)

F: Appendix 6
CONSUMER LAW MATRIX
 Based upon Consumer International's Eight Consumer Rights
 on
Law of the Republic of Indonesia
No. 8/1999 concerning Consumer Protection

A	THE RIGHT TO SAFETY	YES	NO
<i>Protect consumers from products or services which are dangerous or unsafe, or whose use might cause injury to others, by:</i>			
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.	√	
<i>Ensure that information about unsafe products and services is collected and made available to consumers, by:</i>			
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.		√
<i>Ensure that dangerous products are recalled from suppliers, by:</i>			
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
<i>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:</i>			
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	✓	
<i>Ensure consumers are able to compare different products, by:</i>			
5	prohibiting deceptive packaging; and	✓	
6	requiring packages to clearly identify their contents	✓	
7	requiring packages to clearly identify their price		✓
<i>Protect consumers from conduct which is false or misleading, by:</i>			
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
<i>Encourage consumers to acquire only the things they need, by:</i>			
1	establishing procedures for community and consumer education about products.		✓
<i>Protect consumers from anti-competitive conduct and exploitation, by:</i>			
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
<i>Ensure consumers can participate in the development of policies which affect them, including giving consumer representatives access to the media, by:</i>			
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
<i>Provide consumers with cost-effective, speedy and accessible means to enforce their legal rights, by:</i>			
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.	✓	
<i>Provide a mechanism through which consumers can channel their complaints and grievances to government, by:</i>			
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		✓
<i>Ensure that consumers are properly compensated for any loss suffered if their consumer rights are contravened, by:</i>			
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.		√
<i>Establish effective post-sale consumer protection, by:</i>			
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	√	
<i>Establish procedures which ensure consumers are informed about their consumer rights, particularly consumers with special needs, by:</i>			
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
<i>Protect consumers from pollution of the environment, by:</i>			
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		√
<i>Promote the use of non-toxic products where available, by:</i>			
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
<i>Consumer laws should promote the provision of information to consumers about products and substances which may adversely affect them, by:</i>			
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.		✓
<i>Protect the privacy of consumers, by:</i>			
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

LAW OF THE REPUBLIC OF INDONESIA NUMBER 8 YEAR 1999

CONCERNING CONSUMER PROTECTION UPON THE MERCY OF GOD THE ALMIGHTY

President of the Republic of Indonesia,

Considering:

- a. that the objective of national development in an economic democracy era based on Pancasila and the 1945 Constitution is to create a just and prosperous society for equal distribution of material and spiritual welfare;
- b. that the national economic development in a global era must be able to support the growth of the business sector in order to produce all kinds of goods/or services with technological contents to improve the public welfare in general while at the same time obtaining security of the goods and/or services from trading transactions without causing any damages to the consumers;
- c. that the increased opening of the national market as a result of the globalization process of the economy must be able to guarantee the improvement of public welfare and security of the quality, number and safety of the goods and/or services obtained from the market;
- d. that in order to improve their dignities and values, the consumers need to enhance their awareness, knowledge, concern, ability and independence to protect themselves and to create and develop a responsible behavior on the part of the entrepreneurs;
- e. that the legal provisions protecting the consumers interests in Indonesia are not yet adequate;
- f. that based on the aforementioned considerations, the law must create a balance of protection between the consumers interests and entrepreneurs interests in order to create a healthy economy is needed;
- g. that for that objective it is deemed necessary to endorse a law on Consumers protection.

Bearing in mind:

Article 5 Section (1) Article 21 section (1), Article 27, and 33 of the 1945 Constitution.

**Upon the Approval
OF THE HOUSE OF REPRESENTATIVES OF THE REPUBLIC
OF INDONESIA
HAS DECIDED:
To enact: THE LAW ON CONSUMER PROTECTION.**

**CHAPTER I
GENERAL PROVISIONS**

Article I

In this law, that which is intended by:

1. Consumers' protection is all means which guarantee the legal security to protect the consumers.
2. Consumer is each individual user goods and/or services available in society, for the benefit of them-selves, family members, other people, and other living creatures and which are not for trading
3. Entrepreneur is an individual person or a company, in the form of a legal or non-legal entity established and domiciled or engaged in activities within the legal territory of the Republic of Indonesia, conducting various kinds of business activities in the economic sector through contracts, both individually and collectively.
4. Goods is any object tangible or insufficiently tangible, movable or immovable, consumable or inconsumable, which can be traded, used, consumed, or utilized by the consumers.
5. Services is any service in the form of work or performance traded in the society to be used by the consumers.
6. Promotion is any activity of introducing or spreading the information on certain goods and/or services to attract the consumers to buy the goods and/or services being traded.
7. Importing goods is an activity of bringing goods into the customs office.
8. Importing services is any activity of supplying Foreign Service to be used within the territory the Republic of Indonesia.
9. The Indonesian Consumers Foundation is a non government foundation registered and recognized by the Government engaging in consumer protection activities.
10. Standard Clause is any regulations or provisions and conditions unilaterally prepared and predetermined by the entrepreneurs in the form of a document and/or an agreement which is binding and must be met by the consumers.
11. Consumer Dispute Settlement Agency is an agency responsible for handling and settling the disputes between entrepreneurs and consumers.

12. National Consumer Protection Agency is an agency established to help develop consumers' protection.

13. Minister is a minister whose scope of duties and responsibilities are within the field of trading.

CHAPTER II PRINCIPLE AND OBJECTIVES

Article 2

Consumer protection is based on the principles of benefit, justice, balance, security, safety and legal security of the consumers.

Article 3

The objectives of consumers' protection are:

- a. to improve the awareness, ability and independence of the consumers to protect themselves
- b. to enhance the integrities and values of the consumers by avoiding negative excess of using the goods and/or services;
- c. to improve the ability of the consumers to select, determine and claim their rights as consumers,
- d. to create a consumers protection system containing legal security and information transparency and access to information;
- e. to develop entrepreneur's aware-ness on the importance of consumers protection. thus creating an honest and responsible behavior in conducting their business;
- f. to improve the quality of the goods and/or services which will guarantee the business will continue producing goods and/or services, conforming to health, comfort, Security and safety to the consumers.;

CHAPTER III RIGHTS AND OBLIGATIONS

Part One

Rights and Obligations of the Consumers

Article 4

The rights of the consumers are:

- a. to obtain comfort, security and safety in using or consuming the goods and/or service;
- b. to choose the goods and/or services and obtain Point b the said goods and/or services in accordance with the promised conversion value and condition and warranty;
- c. to obtain correct, clear and honest information on the condition and warranty of the goods and/or services;
- d. to be heard in expressing opinion and complaints on the goods and/or services they use or consume;
- e. to obtain proper advocacy, protection and settlement in the consumer's protection dispute;
- f. to obtain consumer's training and education;

- g. to receive proper and honest and nondiscriminatory treatment or service,
- h. to obtain compensation, redress and/or substitution, if the goods and/or services received are not in accord with the agreement or not received as requested,
- i. to obtain rights as regulated in the other provisions of the law.

Article 5

The obligations of the consumers:

- a. To read or follow the information instructions and application or usage procedures of the goods and/ or services for security of safety
- b. To act in good faith in conducting the transaction of purchasing the goods and/or services;
- c. To pay for the price in accordance with the agreed conversing on value;
- d. To follow the proper legal settlement of consumer's protection dispute.

Part Two Rights and Obligations of the Entrepreneurs Article 6

The rights of the entrepreneurs are:

- a. to receive the payment in accordance with the sales agreement on the conditions and conversion value of the goods and/or services;
- b. to obtain legal protection from the consumer's acts of bad faith;
- c. to conduct proper self-defense in the legal settlement of the consumer's dispute;
- d. to rehabilitate its good reputation if legally proven that the consumer's damage is not caused by the goods and/or services purchase;
- e. to obtain rights as regulated in the other provisions of the law.

Article 7

The obligations of the entrepreneurs:

- a. to act in good faith in conducting the business;
- b. to provide correct, clear and honest information with regard to the condition and warranty of the goods and/or services and provide explanation on the use, repair and maintenance;
- c. to treat and serve the consumers properly and honestly and non-discriminatively;
- d. to guarantee the goods and/or services produced and/or traded based on the prevailing quality standard provisions of the goods and/or services;
- e. to provide the opportunity to the consumers to test and or/try on certain goods and/or services and provide warranty and/or guarantee on the produced and/or traded goods;
- f. to provide compensation, redress and/or substitution for the damages caused by the use, consumption and application of the goods and/ or services;
- g. to provide compensation, redress and/or substitution if the goods and! or services received or used do not accord with the agreement.

CHAPTER IV
PROHIBITION IMPOSED ON THE ENTREPRENEURS
Article 8

- (1) The entrepreneurs are not allowed to produce and/or trade goods and/or services which:
- a. do not meet or accord with the required standard and provisions of the law;
 - b. do not accord with the net weight net volume, and the total amount as stated on the label of the said goods;
 - c. do not accord with the actual size, measurement and total amount;
 - d. do not accord with the condition, guarantee, specialty or efficacy as stated on the label or information of the said goods and/or services;
 - e. do not accord with certain quality degree, composition, process, style, mode, or use as stated on the label or information of the said goods and/or services;
 - f. do not accord with the promise as stated on the label information, advertisement or sales promotion of the goods and/or services;
 - g. do not mention expiry dates or best before for the use of the said goods and/or services;
 - h. do not follow halal production processes for products with halal Label;
 - i. do not have labels explaining the name, size net weight/volume, composition, directions, product dates, side effect, name and address of the company or other information required to be labeled or mace by the law;
 - j. do not include information and/or directions on the use of the goods in Indonesian language to conform with the prevailing provisions of the law.
- (2) Entrepreneurs are prohibited from trading damaged, defective or used and tainted goods without providing complete and correct information.
- (3) Entrepreneurs are prohibited from trading damaged, defective or used and tainted pharmaceutical or food products with or without providing complete and correct information.
- (4) Entrepreneurs who violate Section 1 and Section 2 above are prohibited from trading the said products and/or services and must pull the products from the circulation.

Article 9

- (1) Entrepreneurs are prohibited from misleadingly offering, promoting advertising certain goods and/or services if:
- a. the goods have been discounted, have special prices and/or have not met certain quality standard, certain style or mode, certain characteristic, certain historical or use;
 - b. the goods are not in good and/or new condition;
 - c. the goods and/or services have obtained and/or had a sponsor, approval, certain features, certain advantages, certain working characteristics or accession;
 - d. the goods and/or services are made by the company which has a sponsor, approval or affiliation,
 - e. the goods and/or services are not available;
 - f. the goods and/or services have hidden defect;
 - g. the goods and/or services are features of a certain goods;
 - h. the goods come from a certain area;
 - i. directly or indirectly disparaging other goods and/or services;
 - j. using exaggerated words, such as safe, not harmful, not risky, no side effect without complete information,

k. offering something containing unsecured promise.

(2) The goods and/or services mentioned in Section 1 above are prohibited from being traced.

(3) Entrepreneurs who violate Section 1 above are not allowed to continue offering, promoting and advertising the said goods and/or services

Article 10

In offering the goods and/or services for trading, entrepreneurs are prohibited from offering, promoting, advertising or providing incorrect or misleading statements regarding:

- a. the price or rate of a certain goods and/or services;
- b. the use of the goods and/or services;
- c. the condition, warranty, guarantee, rights or compensation on certain
- d. goods and/or services;
- e. the discount or attractive prizes offered;
- f. the danger of using the goods and/ or services.

Article 11

In conducting trading through sales or auction, entrepreneurs are prohibited from deceiving/misleading the consumers by:

- a. stating that the goods and/or services meet certain standard quality;
- b. stating that the goods and/or services do not have hidden defect
- c. not intending to sell the offered goods, but with the intention to sell other goods;
- d. not supplying the goods in certain and/or sufficient numbers or amount with the intention to sell other goods;
- e. not supplying services in certain capacities or in sufficient amount with the intention to sell other services;
- f. Increasing the prices or rates of the goods and/or services before selling goods on sales.

Article 12

Entrepreneurs are prohibited from offering, promoting or advertising the goods and/or services on special prices or rates within a certain period of time and in a certain number, if the entrepreneurs do not intend to implement during that designated period of time or according to the amount or numbers to be offered, promoted or advertised.

Article 13

(1) Entrepreneurs are prohibited from offering, promoting or advertising certain goods and/or services by promising to give prizes in the form of other goods and/or services free of charge with the intention of not giving them or to give them but not in accordance with the promised plan.

(2) Entrepreneurs are prohibited from offering promoting or advertising the medicines, traditional medicines, food supplements, health equipment and health services by promising to give prizes in the form of other goods and/or services.

Article 14

In offering the goods and/or services for trading by giving prizes through lottery, the entrepreneurs are not allowed:

- a. to trade the goods without drawing the lottery on the date the lottery is due to be drawn,
- b. to announce the result of the lottery without using mass media;
- c. to give the prizes not in accordance with the promised prizes;
- d. to substitute the prizes with goods not equal in value with the promised prizes.

Article 15

Entrepreneurs are prohibited from offering goods and/or services by using force or any other methods which can cause either physical or psychological annoyance to the consumers.

Article 16

In offering goods and/or services through order, the entrepreneurs are prohibited from:

- a. breaking the ordering and/or agreement at the time of settlement of the agreed ordering,
- b. breaking the promise on certain services and/or performance.

Article 17

(1) Entrepreneurs in the advertising business are prohibited from producing advertisements which:

- a. deceive the consumers on the quality, quantity, ingredients, use and prices of the goods and/or rates of the services and the punctuality of receiving the goods and/or services;
- b. deceive the guarantee on certain goods and/or services;
- c. provide incorrect, wrong or inaccurate information on the goods and/or services;
- d. do not provide information on the risks of using the goods and/or services,
- e. exploit the incident and/or someone without the permission from the authorized officials or the approval of the person concerned;
- f. violate the ethics and/or legal provisions on advertising.

(2) Entrepreneurs in the advertising business are prohibited from continuing the advertisement circulation which has violated the provisions on Section 1.

CHAPTER V PROVISION TO INCLUDE STANDARD CLAUSE

Article 18

(1) In offering the goods and/or services for trading, the entrepreneurs are prohibited from making or including a standard clause on each document and/or agreement if:

- a. it states the transfer of the entrepreneurs, responsibility;
- b. it states that the entrepreneurs reserve the right to refuse to receive back the goods already purchased by the consumer;
- c. it states that the entrepreneurs reserve the right to refuse to refund for the goods and/or services already purchased by the consumer;
- d. it states that it gives the authority to the entrepreneurs from the consumers to carry out directly or indirectly all unilateral actions with regards to the goods purchased on installer the consumers;
- e. it regulates concerning the authentication to forfeit the use of the goods or the benefits of the services purchased by the consumers;

- f. it gives rights to the entrepreneurs to reduce the benefits of the services or reduce the properties of the consumers as the object of services trading,
- g. it states that the consumers are subject to the new regulation, additional regulation, continued regulation and/or continuous change of regulation made unilaterally by entrepreneurs during the period the consumers are using the services they purchased;
- h. it states that the consumers give authority to the entrepreneurs to impose mortgage, pledge or guarantee against the goods purchased on installment by the consumer.

(2) Entrepreneurs are prohibited from including a standard clause at the place or in the form which is difficult to see or cannot be read clearly, or under the statement which is difficult to understand:

(3) Each standard clause stipulated unilaterally by the entrepreneur in the document or contract which falls under the provisions as intended by Section 1 and Section 2 above shall be declared invalid by operation of law.

(4) Entrepreneurs are obligated to adjust the standard clause which contravenes this law.

CHAPTER VI ENTREPRENEURS' OBLIGATIONS

Article 19

(1) Entrepreneurs are obligated to give compensation for the damage, taint and/or losses the consumers suffer as a result of using or consuming the goods and/or services produced or traded by the entrepreneurs.

(2) Compensation as intended by Section 1 above can be in the form of refund or goods and/or services of the same type or has equal value, or in the form of health care and/or insurance coverage in accord with the prevailing law.

(3) Compensation shall be given within the period of 7 (seven) days after the date of transaction.

(4) Compensation as intended by Section 1 and Section 2 above shall not exclude the possibility of a criminal charge based on further evidence of the existence of a fault.

(5) The provisions as intended by Section 1 and Section 2 above shall not be valid if the entrepreneurs can prove that the consumer is at fault.

Article 20

Entrepreneurs in the advertising business are responsible for the advertisement they produce and all the consequences caused by the advertisement.

Article 21

(1) An importer of goods bears responsibility similar to that of a producer of the imported goods if the goods are not imported by an agent or representative of the foreign producer.

(2) An importer of services bears responsibility similar to that of a foreign services provider if the availability of the said foreign services is not made by an agent or representative of the foreign services provide

Article 22

Proof of any faults in the criminal case as intended by Article 19 Section 4, Article 20, and Article 21 above shall be the burden and responsibility of the entrepreneurs, without excluding the possibility for the Public Prosecutor to prove it

Article 23

Entrepreneurs who refuse and/or do not respond and/or do not provide compensation to the consumers' claim as intended by Article 19 Section 1, Section 2 Section 3, and Section 4 above, can be sued through the Consumer Disputes Settlement Agency or brought to court at the domicile of the consumers.

Article 24

(1) Entrepreneurs who sell goods and/or services to other entrepreneurs are responsible for the compensation claims and/or consumer's suit if:

- a. the other entrepreneurs sell to the consumers without making any changes to the said goods and/or services;
- b. the other entrepreneurs, in the trading transaction do not know that changes have been made to the goods and/or services by the entrepreneurs or the goods and/or services are not in compliance with the sample, quality and compositions.

(2) Entrepreneurs as referred to in Section 1 above shall be exempted from any responsibilities or compensation claims and/or consumer's suit if the other entrepreneurs purchasing the goods and/or Services resell to the consumers after making changes to the said goods and/or services.

Article 25

(1) Entrepreneurs who produce goods which can be used for at least 1 {one} year or more are obligated to provide spare parts and/or after sales facilities and are obligated to honor the guarantee or warranty based on the agreed contract;

(2) Entrepreneurs as referred to by Section 1 above are responsible for any compensation claims and/or consumer's suit if the said entrepreneurs:

- a. do not provide or fail to provide spare parts and/or repair facilities;
- b. do not honor or fail to honor the guarantee and/or warranty based on the agreed contract.

Article 26

Entrepreneurs who are trading services are obligated to honor the agreed and/or contracted guarantee.

Article 27

Entrepreneurs who produce the goods are exempted from being responsible for the damages suffered by the consumers, if:

- a. it is proven that the said goods should not be circulated or are not intended to be circulated;
- b. the defect occurs afterwards;
- c. the defect occurs due to lack of adherence to the rules on the goods qualifications;
- d. negligence caused by the consumers;
- e. has exceeded the claim period of 4 years since the purchase of the goods or has exceeded the claim period as agreed.

Article 28

The giving of evidence of faults in the compensation claims as referred to by Articles 19, 22 and 23 shall be the burden and responsibility of the entrepreneurs.

CHAPTER VII DEVELOPMENT AND SUPER VISION

Part One

Development

Article 29

- (1) The government is responsible for developing the implementation of consumers protection which guarantee the rights of the consumers and entrepreneurs and the implementation of the obligations of the consumers and entrepreneurs.
- (2) Development to implement the consumers protection as intended by Section 1 above shall be carried out by the Minister and/or the technically related ministers.
- (3) The ministers as intended by Section 2 above shall coordinate the implementation of the consumers' protection.
- (4) Development to implement the consumers protection is intended by Section 2 above shall include the efforts to:
 - a. create the business climate and to develop a healthy relationship between the entrepreneurs and consumers;
 - b. develop non-governmental consumer protection foundations;
 - c. to improve the quality of the human resources and to increase the research and development activities in the consumers protection sector.
- (5) Provisions regarding the development to implement consumers protection shall be further regulated by Government Regulations.

Part Two

Supervision

Article 30

- (1) Supervision for the implementation of the consumers protection and application of the legal provisions shall be carried out by the government, public, and non-government consumer protection foundations.
- (2) Supervision by the government as intended by Section 1 above shall be carried out by the Minister and/or technically related ministers.
- (3) Supervision by the public and nongovernmental consumer protection foundations shall be carried out against the goods and/or services circulating in the market.
- (4) If the results of the supervision as intended by Section 3 above prove to have violated the prevailing legal provisions and are harmful to the consumers, the Minister and/or technically related ministers shall take measures pursuant to the prevailing law.
- (5) The results of the supervision carried out by the public and non governmental consumer protection foundations can be spread to the public and can be submitted to the Minister and the technically related ministers.
- (6) Provisions to implement the supervision responsibility as intended by Section 1, Section 2 and Section 3 above shall be regulated by a government regulation.

**CHAPTER VIII
NATIONAL CONSUMER
PROTECTION**

**AGENCY
Part One**

Name, Domicile, Function and Duties

Article 31

In order to develop consumer protection efforts, a national consumer protection agency shall be set up.

Article 32

The national consumer protection agency will be domiciled in the capital city of the Republic of Indonesia and shall be responsible to the President.

Article 33

The National consumer protection agency functions to provide suggestions and considerations to the government in the framework of developing consumers' protection in Indonesia.

Article 34

(1) In order to implement the function as intended by Article 33 above, the national consumer protection agency function are:

- a. to provide suggestions and recommendation to the government in the framework of preparing the policies for consumer protection;
- b. to conduct surveys and studies of the prevailing legal provisions in the consumers' protection sector;
- c. to conduct surveys of the goods and/or service regarding the consumers safety;
- d. to encourage the development of non-governmental consumer protection foundations,
- e. to spread information through the media regarding consumers' pro and to socialize the attitude of siding with the consumers;
- f. to receive complaints regarding consumers' protection from the public, non-governmental consumer protection foundations or the entrepreneurs;
- g. to conduct survey regarding the consumers needs.

(2) In implementing its duties as intended by Section 1 above, the national consumer protection agency can cooperate with international consumer organizations.

**Part Two
Organizational Structure and
Membership**

Article 35

(1) The national consumer protection agency will consist of one chairman serving concurrently as a member, a vice chairman serving concurrently as a member, and at least 15 (fifteen) members and at the most 25 (twenty-five) members representing all elements

(2) Members of the national consumer protection agency shall be appointed and terminated by the President upon the recommendation by the Minister, after consultation with the House of Representatives of the Republic of Indonesia.

(3) The terms of office of the chairman, vice chairman and members of the national consumer protection agency shall be 3 (three) years and can be reappointed for one more office term.

(4) The Chairman and vice chairman of the national consumer protection agency shall be selected by the members.

Article 36

Membership of the national consumer protection agency shall come from elements of the:

- a. government.
- b. entrepreneurs;
- c. non-governmental consumer protection foundations;
- d. academicians and
- e. experts.

Article 37

The membership requirements of the national consumer protection agency shall be as follows:

- a. be a citizen of the Republic of Indonesia;
- b. be in good health,
- c. be of good behavior;
- d. have never been convicted for crime;
- e. have knowledge and experience in the field of consumers protection and
- f. be at least 30 (thirty) years of age.

Article 38

Membership of the national consumer protection agency ends, because of:

- a. death;
- b. resignation upon own request,
- c. domicile outside the territory of the Republic of Indonesia;
- d. inflicted by illness for a long period of time;
- e. the end of membership office term, or
- f. being dismissed.

Article 39

(1) For a smooth implementation of its duties, the national consumer protection agency shall be assisted by a secretariat.

(2) The secretariat as intended by Section 1 above shall be chaired by a secretary appointed by the chairman of the national consumer protection agency.

(3) The functions, duties and work ethics of the secretariat as intended by Section 1 above shall be regulated by a decision made by the chairman of the national consumer protection agency.

Article 40

(1) If it is deemed necessary, the national consumer protection agency can establish a representative in the capital city of the provinces to assist in implementing its duties.

(2) The establishment of the representatives as intended by Section 1 above shall be further determined by a decision made by the chairman of the national consumer protection agency.

Article 41

In implementing its duties, the national consumer protection agency shall work based on the work ethics regulated in the decision by the chairman of the national consumer protection agency.

Article 42

Funding for the implementation of the duties of the national consumer protection agency shall be borne by the state budget and revenues and other sources permitted under the existing law.

Article 43

Provisions regarding the establishment of the national consumer protection agency shall be further regulated by government regulations

CHAPTER IX NON-GOVERNMENTAL CONSUMER PROTECTION FOUNDATIONS

Article 44

(1) The government recognizes the nongovernmental consumer protection foundations that meet the requirements.

(2) The non-governmental consumer protection foundations have the opportunity to play an active role in implementing the consumers protection.

(3) Duties of the non-governmental consumer protection foundations shall consist of the following activities:

- a. to spread information in order to improve public awareness of their rights and obligations and cautions in consuming or using the goods and/or services;
- b. to give suggestions to the consumers who need their services;
- c. to cooperate with the related agencies to implement consumers protection;
- d. to assist the consumers in fighting their rights, including accommodating their complaints;
- e. to conduct joint supervision with the government and the public for the implementation of consumers protection.

(4) Provisions regarding duties of nongovernmental consumer protection foundations as intended by Section 3 above shall be further regulated by Government Regulations.

CHAPTER X SETLEMENT OF DISPUTES Part One General

Article 45

- (1) Every consumer who has suffered damages may file charges against the entrepreneurs through the foundation which is responsible for settling the disputes between the consumers and entrepreneurs or through a court under the jurisdiction of general court
- (2) Settlement of the consumers' disputes can be conducted in a court or outside the court based on the voluntary choice of the disputed parties.
- (3) Settlement of the disputes outside the court as intended by Section 2 above shall not forfeit the penal responsibility as regulated in the law.
- (4) If efforts to settle the consumers disputes outside the court has been made, charges can only be filed in the court if the said efforts are declared unsuccessful by one of the parties or by both of the parties in dispute.

Article 46

- (1) Charges against violations by the entrepreneurs can be filed by:
 - a. a consumer who has suffered damages or his/her heir;
 - b. a group of consumers who have common interests;
 - c. a non-governmental consumer protection foundation which has met the requirements, both in the form of a legal entity or foundation, whose articles of association clearly mention that the objective of the establishment of the said organization is to protect the consumers and has conducted activities pursuant to its articles of association;
 - d. the government and/or related agency if the goods and/or services consumed or used have caused great material damages and/or many casualties.
- (2) Charges filed by a group of consumers, by a non governmental consumer protection foundation or the government as intended by Section 1 point b, point c or point d above shall be submitted to the general court.
- (3) Provisions regarding a great amount of material damages and/ or many casualties as intended by Section 1 point d above shall be further regulated by government regulations.

Part Two

Settlement of Disputes Outside the Court

Article 47

Settlement of disputes outside the court shall be conducted in order to reach an agreement regarding the type and amount of compensation and/or regarding certain measures that must be taken to ensure that no such damages should occur again to the consumers.

Part Three

Settlement of Disputes in Court

Article 48

Settlement of disputes in court shall refer to the provisions on the prevailing general court with due regard to the provisions in Article 45.

CHAPTER XI CONSUMER DISPUTE SETTLEMENT AGENCY

Article 49

- (1) The government shall establish consumer dispute settlement agencies in the Level II Administrative Regions to settle consumer disputes outside the court.
- (2) In order to be eligible to be appointed as members of a consumer dispute settlement agency, one must meet the following requirements:
 - a. be a citizen of the Republic of Indonesia;
 - b. be healthy;
 - c. have a good behavior;
 - d. have never been convicted for crime;
 - e. have knowledge and experience in the field of consumers protection;
 - f. be at least 30 (thirty) years of age.
- (3) The members as intended by Section 2 above can be from either the government, consumers and entrepreneurs.
- (4) The number of members from each group as intended by Section 3 above shall be at least 3 (three) people and at the most 5 (five) people.
- (5) The appointment and dismissal of members of a consumer dispute settlement agency shall be regulated by the Minister.

Article 50

A consumer dispute settlement agency as intended by Article 49 Section 1 above consists of:

- a. a chairman serving concurrently as a member;
- b. a vice chairman serving concurrently as a member;
- c. members.

Article 51

- (1) In implementing its duties to settle consumer disputes the consumer dispute settle agency shall be assisted by a secretariat.
- (2) The secretariat of a consumer dispute settlement agency shall consist of a chairman and members of the secretariat.
- (3) The appointment and dismissal of the chairman and members of the secretariat of the consumer dispute settlement agency shall be regulated the Minister.

Article 52

Duties and authorities of the consumer dispute settlement agency shall be:

- a. to handle and settle consumer disputes through mediation or arbitration or conciliation,
- b. to provide consultation for consumer protection;
- c. to conduct supervision against the inclusion of standard clause;
- d. to report to the public investigators if there are any violations to the provisions of this law;
- e. to receive written or oral complaints from the consumers regarding the violations against the consumers protection.
- f. to investigate and examine the consumers protection disputes;
- g. to summon the entrepreneurs who are accused to have violated against The consumers' protection;
- h. to summon and bring witnesses, witness experts and/or each and every one considered to have known that there has been violation against this law;

- i. to request assistance from the investigators to bring the entrepreneurs, witnesses, witness experts or each and every one intended by points g and h above who are not willing to fulfill the summon by the consumer dispute settlement agency;
- j. to obtain examine and/or evaluate the letters, documents or other evidence to be used for investigation and/or examination;
- k. to decide and determine if the consumer has suffered any damages or not;
- l. to notify the decision to the entrepreneurs who have violated against consumers' protection,
- m. to impose administrative sanctions against the entrepreneurs who have violated this law.

Article 53

Provisions regarding the implementation of the duties and authorities of the consumer dispute settlement agency in the Level II of Administrative Region shall be further regulated by a Minister's regulation.

Article 54

- (1) In order to handle and settle consumer disputes, the consumer dispute settlement agency shall establish a committee.
- (2) The number of committee members as intended by Section 1 above must be uneven numbers and must consist of at least 3 (three) members representing all elements as intended by Article 49 Section 3, and shall be assisted by a registrar.
- (3) The decision by the committee shall be final and binding.
- (4) Technical provisions regarding the implementation of the committee's duties shall be further regulated by a Ministers regulation.

Article 55

The consumer dispute settlement agency is obligated to render a decision at the latest within 21 (twenty-one) days after the charge is received.

Article 56

- (1) At the latest within 7 (seven) days upon receiving the decision by the consumer dispute settlement agency as intended by Article 55 above, the entrepreneurs are obligated to implement the said decision.
- (2) The parties may submit an appeal to the District Court at the latest within 14 (fourteen) working days after receiving the notification of the said decision.
- (3) Entrepreneurs who do not submit an appeal within the period as intended by Section 2 above shall be considered to have accepted the decision by the consumer dispute settlement agency.
- (4) If the provisions as intended by Section 1 and Section 3 above are not implemented by the entrepreneurs, the consumer dispute settlement agency shall hand over the said decision to the investigators to conduct an investigation pursuant to the prevailing provisions of the law.
- (5) The decision by the consumer dispute settlement agency as intended by Section 3 above shall be sufficient to be considered as initial evidence for the investigators to conduct an investigation.

Article 57

The decision by the committee as intended by Article 54 Section 3 above shall be requested by the District Court to be enforced at the jurisdiction of the consumer who has suffered damages.

Article 58

(1) The District Court is obligated to make a decision regarding the appeal as intended by Article 56 Section 2 above at the latest within the period of 21 (twenty-one) days upon receiving the appeal.

(2) Against the decision by the District Court as intended by Section 1 above, at the latest within the period of 14 (fourteen) days, the parties may submit a cassation to the Supreme Court of the Republic of Indonesia.

(3) The Supreme Court of the Republic of Indonesia is obligated to render a decision at the latest within a period of 30 (thirty) days upon receiving the cessation petition

CHAPTER XII INVESTIGATION

Article 59

(1) Apart from the police officers of the Republic of Indonesia, certain civil servants within the government agency whose scope of duties and responsibility fall under the field of consumers protection shall also be given special authority to become investigators as intended by the prevailing law on criminal legal procedures.

(2) Civil servant investigators as intended by Section 1 above shall be authorized:

- a. to conduct an investigation on the report or information with regard to the criminal acts against consumers' protection.
- b. to conduct an investigation against a person or a legal entity who is alleged to have committed a crime against consumers' protection,
- c. to request information and evidence from the person or legal entity with regard to criminal acts against consumers' protection;
- d. to conduct an investigation of the bookkeeping, records and other documents with regard to criminal acts against consumers' protection;
- e. to conduct an investigation at certain places where evidence has been allegedly found and confiscate any materials or goods resulting from the violation to be used as hard evidence in the crime case against consumers' protection,
- f. to request assistance from experts in order to investigate criminal acts against consumers' protection.

(3) The civil servant investigators as intended by Section 1 above shall notify about the starting of the investigation and results of their investigation to the Police Investigators of the Republic of Indonesia.

(4) The civil servant investigators as intended by Section 1 above shall submit the results of their investigation to the Public Prosecutors through the Police Investigators of the Republic of Indonesia.

CHAPTER XIII SANCTION Part One Administrative Sanction

Article 60

- (1) The consumer dispute settlement agency shall be authorized to impose an administrative sanction to the entrepreneurs who violate Article 19 Section 2 and Section 3, Article 20, Article 25 and Article 26.
- (2) The administrative sanction shall be determined in maximum amount of Rp. 200,000,000 (two hundred million rupiah).
- (3) Procedure of determining an administrative sanction as intended by Section 1 above shall be further regulated by the Law.

Part Two Criminal Sanction

Article 61

Criminal charges can be filed against the entrepreneurs and/or their administrators.

Article 62

- (1) Entrepreneurs who violate the provisions as intended by Article 8, Article 9, Article 10, Article 13 Section 2 Article 15, Article 17 Section 1 point a, point b, point C point e (2) and Section 2, and Article 18 shall face a maximum criminal penalty of 5 (five) years imprisonment or a maximum fine of Rp. 2000,000,000,- (two billion rupiah).
- (3) Entrepreneurs who violate the provisions as intended by article 11 Article 12 Article 13, Section 1, Article 14, Article 16 and Article 17 Section 1 point d and point f shall face a maximum criminal penalty of 2 (two) years imprisonment or a maximum fine of Rp. 500,000,000 (five hundred million rupiah).
- (4) Violations causing serious injury, serious sickness, permanent physical handicap or death shall subject to the provisions of the prevailing law.

Article 63

Apart from the criminal penalty as intended by Article 62 above, additional penalties can also be imposed in the form of:

- a. confiscation of certain goods;
- b. announcement of judge's decision;
- c. payment for damages;
- d. injunction to stop certain activities that cause damages to the consumers;
- e. the obligation to pull out goods from circulation; or
- f. revocation of business permit

CHAPTER XIV PROVISIONS ON TRANSITION

Article 64

All provisions of the law aimed to protect the consumers which had existed at the time this law was promulgated shall remain in force as long as they are not specifically regulated and/or not contravening the provisions in this law.

CHAPTER XV CONCLUDING PROVISIONS

Article 65

This law shall be enforceable after 1 (one) year counted from the date it is promulgated.

In order that all persons may be informed thereof, the promulgation of this law is ordered by placement in the State Gazette of the Republic of Indonesia.

Ratified in Jakarta

On 20 April 1999

PRESIDENT
OF THE REPUBLIC OF INDONESIA

BACHARUDDIN JUSUF HABIBIE

Promulgated in Jakarta
on 20 April 1999

MINISTER OF THE STATE SECRETARIAT
REPUBLIC OF INDONESIA
ttd
AKBAR TANJUNG

OFFICIAL STATE GAZETE OF THE REPUBLIC OF INDONESIA NO. 42 YEAR 1999
SUPPLEMENT TO THE OFFICIAL STATE GAZETTE OF THE REPUBLIC OF
INDONESIA NO. 3821