

**Panel 2 – Measures and Regulations for Protecting Consumers in
the Digital Economy & AI**

Consumer Impact Assessment as a Tool for Advocacy

Que Anh Pham

AP Research Consults

Structure of presentation

- Consumer Advocacy: Concepts & Tools
- Consumer Impact Assessment: A Policy Advocacy Tool
- Protecting Consumers in the Digital Economy & AI

Consumer Advocacy: Concepts & Tools

- ‘Consumer advocacy’ is an often used term without clear and widely-accepted definition
- Broadly, consumer advocacy refers to actions taken by individuals or [consumer] groups and organizations to promote and protect the interests of the buying / consuming public.
- Popular tools:
 - **Education & Support** – Educating and raising the awareness of consumers about their legitimate rights, through workshops, webinars, and informational resources, empowering consumers to make informed decisions and take necessary actions when faced with unfair practices.
 - **Legal Action** - Including filing individual lawsuits, or initiating class-action suits on behalf of consumers suffering from damages (*vs. enforcement actions by consumer agencies*)
 - **Policy Advocacy** – Advocating for policy changes that enhance consumer protection, including working with policymakers to draft new legislations or amend / revise outdated ones, or providing expert testimony in support of laws and regulations that safeguard consumers' interests



Consumer Impact Assessment: A Policy Advocacy Tool



ASEAN Guidelines on
Consumer Impact Assessment (CIA)



- The CIA Guidelines offer clear guidance for screening and reviewing (draft/existing) policies, laws and/or regulations to see whether they [will likely/might] result in any impact(s) for consumers and their legitimate interest(s), and what such impact looks like. This helps:
 - To **avoid** any conflict(s) with the goals and principles of consumer protection
 - To **maximize** any consumer welfare gains that might accrue from new legislations/regulations
 - To **'mainstream'** consumer protection across different sectors and policy areas
 - To **provide** timely responses from the consumer protection community to newly-emerging issues such as the digital economy & AI
 - [When used by consumer organizations or other advocacy groups] To **develop** more analytical and well-grounded arguments, ensuring a better chance of persuading the governments/policy-makers about the case for changes

Main Contents of the ASEAN Guidelines on CIA

A	Overview	<ul style="list-style-type: none">• Background• Purpose and Structure of the CIA• Application of the CIA in AMS
B	CIA Checklist	<ul style="list-style-type: none">• General Scope• Concepts & Terminology• Screening Questions
C	Process Guidance	<ul style="list-style-type: none">• Step 1 – Apply the Checklist• Step 2 – Assess the Impact(s)• Step 3 – Identify Alternative Option(s) and/or Safeguard(s)• Step 4 – Monitoring & Evaluation• Practical Consideration & Partnerships
Annex - Explanatory Notes of the Screening Questions		

Checklist – If a regulation has one or more of the following effects:

A – Price & Supply

- **Impose** maximum or minimum (retail) prices of all or certain goods and/or services in the market
- **Limit** the quantity of good(s) and/or service(s) available in the market
- Significantly **raise** the costs of producers/ suppliers
- **Limit** the appearance of new good(s) and/or service(s) in the market
- **Limit** the number of business(es) producing/providing good(s) and/or service(s) in the market

B – Consumer Behaviours

- **Fail** to provide consumers with adequate information to make purchasing decision(s)
- **Affect** the ability of consumers to assess the usefulness and value of good(s) and/or service(s)
- **Limit** the ability of consumers to negotiate a contract/transaction or withdraw from it
- **Limit** the ability of consumers to switch to new producer/ provider(s) of good(s) and/or service(s)
- **Limit** the ability of consumers to obtain redress when problems occur

C - Safety & Sustainability

- **Affect** the safety of consumers while using/ consuming good(s) and/or service(s)
- **Affect** the ability of consumers to use/consume good(s) and/or service(s) in a sustainable manner

D - Vulnerable Consumers

- **Limit** fair and equitable access of vulnerable consumers to good(s) and/or service(s), as well as their ability to obtain redress in the case of disputes
- **Affect**, in a significant and different way, the health, safety and economic interests of women as consumers

E – Consumer Privacy & Data Protection

- **Affect** the way consumer data is collected, used and disclosed by business and relevant third parties
- **Result** in any (new/additional) consumer privacy risks, and how these risks have been/are being managed by businesses

Process Guidance

Step 1. Apply the Checklist

- If NO potential impact on consumers is found => Stop the exercise.
- If any YES answer => Preliminary assessment to establish SIGNIFICANCE.

Step 2. Assess the Impact(s)

- Preliminary assessment to establish SIGNIFICANCE
- In-depth assessment of only the Significant Relevant Impact(s)

Step 3. Identify Alternative Option(s) and/or Safeguard(s)

- Project all possible Outcomes
- Clarify any important Trade-offs

Step 4. Monitor & Evaluate the Results

- Adjust Analysis
- Improve Methodologies

Practical Considerations & Partnerships

Protecting Consumers in the Digital Economy & AI



- The CIA could be used to examine whether:
 - horizontal consumer law instruments remain adequate for ensuring a high level of consumer protection in the digital environment
 - the existing consumer protection rules are adequate for dealing with newly-emerging consumer protection issues such as, but not limited to, digital vulnerabilities, dark patterns, personalisation practices, influencer marketing, contract cancellations, subscription service contracts, marketing of virtual items and the addictive use of digital products.
- Screening new / proposed legislations on e-commerce, digital technologies, AI, data protection, etc with the CIA to see whether:
 - They might affect the way consumer data is collected, used and disclosed by business and relevant third parties
 - They might result in any (new/additional) consumer privacy risks, and how these risks have been/are being managed by businesses
 - They might affect the safety of consumers while using/ consuming good(s) and/or service(s)
 - They might affect the ability of consumers to use/consume good(s) and/or service(s) in a sustainable manner
- Proposing alternative options and safeguards, through consulting with stakeholders & learning from the failures / successes of other countries