

EXECUTIVE SUMMARY

Establishment of a Secure and Safe e-Commerce Marketplace

Background and Objectives

The expansion of cross-border trade is one of the key aspects to ensure sustainable economic growth in ASEAN and East Asia. With the region's continuous increase in Internet use, companies, in particular small-and-medium-sized businesses, are keen to take advantage of the opportunity provided by the Internet to start cross-border e-commerce because they can directly sell goods and services beyond borders without hefty investments.

There are two major challenges to encourage parties to engage in cross-border e-commerce; one is the differences of the legal systems in each country, and the other is the disparities of availability across the region in terms of the means of redress for cross-border disputes. As for the latter issue, transaction values in Business to Consumer (B2C) e-commerce are generally small, so there is a growing need for an effective redress for consumers without resorting to litigation.

Since 2008, this working group has focused on studying the establishment of a secure and safe e-commerce environment in ASEAN and the East Asian region, and has held four meetings in total to exchange views among member nations. In 2008, the participants of this working group (1) researched the current status of e-commerce and e-commerce-related laws in each country, and (2) studied the European Consumer Centre Network (ECC-Net)¹ as a pioneering work of a cross-border e-commerce complaint handling network. In 2009, the members (3) attempted to deepen their understanding of the legal systems regarding e-commerce in each member nation, and (4) analyzed actual cross-border complaints to examine the creation of a dispute resolution system for e-commerce. Furthermore, the Social Networking Service (SNS) system was established to share information among the members in an effective manner.

¹ http://ec.europa.eu/consumers/redress_cons/index_en.htm.

Research Findings and Conclusion

E-commerce in each ASEAN and East Asian country is on an upward trend across the region, but the spread of e-commerce differs country by country. The same is true of the development of legal systems regarding e-commerce. For example, some countries stipulate a cooling-off system as compulsory provision, and other countries do not. In such circumstances, there is a need for promoting legal harmonization among ASEAN and East Asian nations to help active cross-border e-commerce transactions. However, the realization of legal harmonization is not feasible in the short term because of the differences in social, economic and political situations within the region. To increase legal transparency in the e-commerce market, it is necessary that the information on the commonalities and differences between legal systems of each country should be available to both e-commerce businesses and consumers before they engage in online transactions.

Many complaints, especially in B2C e-commerce, have resulted from differences of language, laws, regulations, business practices and a lack of communication. The working group obtained the common understanding that most of those complaints can be solved by offering advice and information to consumers. To solve cross-border B2C complaints effectively, complaint handling organizations which have deep knowledge of the legal systems in each country should form a network with each other.

In order to realize the creation of such a network, namely, an International Consumer Advisory Network (ICA-Net), a Consumer Advisory Liaison Office (CALO) should be established in each nation. There are some candidate organizations for CALO in each country. It is desirable that the cost of consultation with consumers is basically free, so those organizations should have a stable financial foundation while operating at a low cost to handle cross-border complaints actively.

The functions of the ICA-Net are 1) to receive cross-border complaints from domestic consumers, 2) to offer them relevant information or advice, 3) to inform the other CALO in a different country where a business in dispute is located regarding the complaint, and 4) to urge the business to solve the dispute through the other CALO. To enable the ICA-Net to function effectively, there is a need for a set of rules which the CALO should comply with. For example, there should be a rule to govern handling of personal information.

After a two-year research project, the effectiveness of the ICA-Net as a venue for handling individual complaints was proven. The project also demonstrated the usefulness of the ICA-Net as a platform for information sharing such as information on the legal systems of each country and best practices for solving disputes among the CALOs. The establishment of the SNS was also beneficial because the CALO can easily share such information through the system.

By continuing and maintaining the ICA-Net among the participating countries with the focus on complaint handling, each government is able to obtain a better understanding of the legal systems and learn from the best practices of other countries toward making effective policy as well as increasing consumer protection in the context of cross-border e-commerce. The ICA-Net could provide the impetus for the harmonization of legal systems on e-commerce, and thereby contribute to the economic integration in ASEAN and East Asia.

Policy Recommendations

- Continuous review and exchange of information regarding legal systems related to e-commerce in ASEAN and East Asia are needed toward future legal harmonization.
- Building and supporting the ICA-Net for the sustainable and effective operation of the network toward the resolution of problems and disputes in cross-border e-commerce. The following are the commitments expected of each government:
 - Select a reliable CALO in each country. It is advisable that the government nominates and selects an adequate organization which intends to and is able to comply with a code of conduct proposed by this working group.
 - Provide minimal financial assistance. It is necessary that the CALO is financially stable to be able to handle complaints and provide information without any costs borne by the consumers.
 - Forge the cooperation of the CALO with domestic law enforcement authorities.
 - Promote the ICA-Net in own country to collect and aggregate complaints or problematic cases in cross border e-commerce into the ICA-Net.

Accumulating the number of cross-border cases handled will make it possible to figure out further issues to be investigated toward legal harmonization.

- Support the cooperation between the ICA-Net and other international for within the region and the broadening of the number of participating countries within the region.
- Support the coalition and cooperation between the ICA-Net and other international networks outside the region, such as the ECC-Net.