

## Policy Brief

# Elevating Consumer Confidence: Strengthening Legal Frameworks and Cross-Border Dispute Resolution in ASEAN's Digital Marketplace

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### Key Messages:

- ASEAN's expanding digital economy requires the adoption of comprehensive online consumer protection laws that address every stage of online transactions: pre-purchase, purchase, and post-purchase.
- Effective consumer protection relies on the implementation of clear pre-contractual information duties, ensuring transparency and preventing deceptive practices in online transactions.
- Digital platforms and peer-to-peer marketplaces must adhere to minimum protection standards, focusing on combating fraud and establishing effective internal dispute resolution mechanisms.
- The creation of an interoperable ASEAN Online Dispute Resolution network is essential to address cross-border consumer complaints, providing efficient and consistent redress across member states.
- To ensure consistency and effectiveness, ASEAN Member States should align their online consumer protection laws with international standards, including those outlined in the RCEP E-Commerce section.

*ASEAN's rapidly growing digital economy underscores the urgent need to safeguard online consumers. As internet and e-commerce usage soar, robust consumer protection mechanisms are essential to address the risks inherent in digital transactions. This Policy Brief explores the current state of online consumer protection in ASEAN, highlighting the critical need for comprehensive legal and policy frameworks that span all stages of online transactions. Drawing on the ASEAN Strategic Action Plan on Consumer Protection and existing legislative measures, it identifies significant gaps in coverage and enforcement. The analysis emphasises the importance of pre-contractual information duties in fostering transparency and consumer trust. Key policy recommendations include the establishment of minimum protection standards for digital platforms, the development of thorough pre-contractual regulations, and the creation of an interoperable ASEAN Online Dispute Resolution (ODR) network. These measures aim to enhance consumer confidence, ensure a secure digital marketplace, and align ASEAN's practices with international standards.*

With the rise of the digital economy, strengthening consumer protection increasingly requires policymakers and enforcers to focus on four critical aspects: (i) legal and policy frameworks; (ii) consumer empowerment and business guidance; (iii) enforcement, including cross-border investigations; and (iv) dispute resolution and redress (UNCTAD, 2020). Online consumer protection spans all stages of transactions: pre-purchase, purchase, and post-purchase.

In 2022, internet users in ASEAN numbered 460 million, representing around 70% of the region's population. This figure is projected to grow by an additional 77.4 million users between 2024 and 2029 (Statista, 2024a). Similarly, e-commerce users are expected to reach 391.3 million by 2028, with penetration rates rising from 48.9% in 2024 to 60.3% by 2028 (Statista, 2024c). Given this dramatic rise in online consumer activity, the adoption of robust online consumer protection laws has become imperative for ASEAN Member States (AMS). Such measures provide legal assurance that online transactions can be conducted in a safe, secure, and trusted environment while ensuring mechanisms for redress.

All AMS have enacted legislation to prevent consumers from being misled into purchasing products or services. However, while some of these laws may be technology-neutral, they often lack effective and explicit legal provisions to address the unique challenges of online trade transactions, let alone cover all four critical aspects outlined above. A binding 'adopt and/or maintain' treaty obligation would require certain AMS to implement new legislation or regulations explicitly addressing electronic commerce

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or extending protections regardless of transaction methods. These laws or regulations could take the form of a single, comprehensive online consumer protection act or sector- and industry-based approaches. However, sector-based frameworks typically offer only partial coverage of online consumer activities.

In addition to establishing legislative and regulatory frameworks, comprehensive online consumer protection strategies should incorporate principles such as digital inclusion (ensuring access, availability, and affordability), safety, and consumer trust (promoting fair competition and transparency). Striking the right balance between protecting consumer rights and fostering the growth of digital markets is essential for sustainable and inclusive economic development.

While there is currently no common ASEAN framework for online consumer protection, the ASEAN Strategic Action Plan on Consumer Protection supports the modernisation of laws across member states to encourage harmonisation. These efforts focus on aligning legal frameworks, facilitating online dispute resolution, and promoting secure cross-border transactions. Key initiatives include the *Guideline on Online Dispute Resolution for Consumers*, the *Guideline on Accountabilities and Responsibilities of E-Marketplaces*, and the *Online Business Code of Conduct*. These serve as foundational building blocks for harmonising online consumer protection across the region. Additionally, they reinforce specific e-commerce safeguards, such as consumer privacy and cross-border dispute resolution, in line with ASEAN's vision of fostering a dynamic and competitive regional digital economy.

**Figure 1. Implementation Aspects of Online Consumer Protection**



Source: Gulati, 2021.

Collaboration between the ASEAN Coordinating Committees on Electronic Commerce and Consumer Protection plays a vital role in strengthening regional coordination. By fostering fair and trustworthy e-commerce practices, this collaboration promotes secure and seamless cross-border transactions, ultimately benefiting businesses and consumers alike.

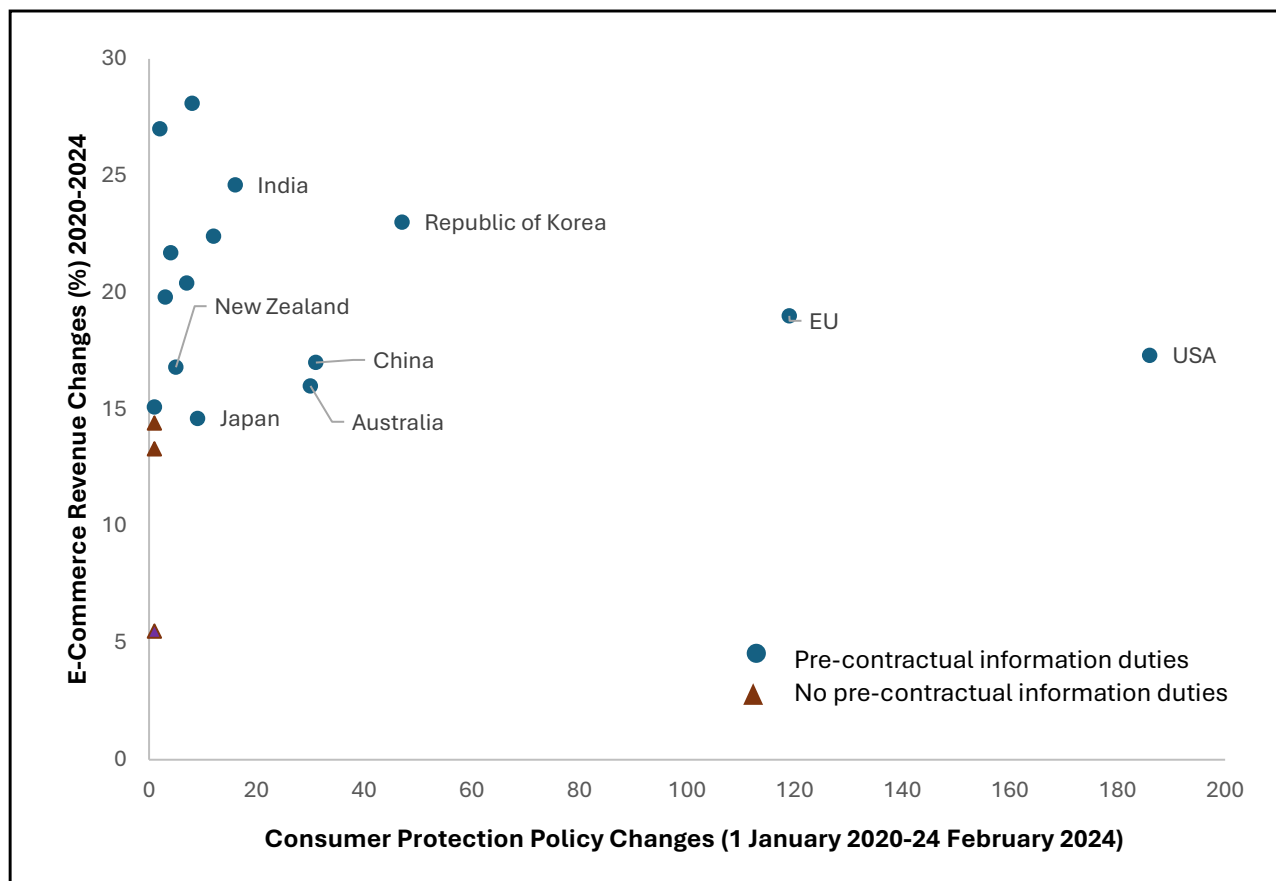
To protect consumers, various market interventions have been implemented, including pre-contractual information duties, early repayment rights, regulations on unfair contract terms, withdrawal rights, and oversight of digital product regulations. Regarding dispute resolution and redress, AMS have introduced diverse mechanisms, such as small claims courts and

tribunals, alternative dispute resolution (ADR) options – both public and private – and, increasingly, online dispute resolution (ODR) systems.<sup>1</sup>

The existing cross-border ODR mechanism under the ASEAN Consumer website enables consumers to file complaints that are redirected to the appropriate national jurisdiction for resolution. While this represents a positive step forward, it is still far from achieving the sophistication and efficiency of more advanced systems like the EU ODR platform. Strengthening and expanding ASEAN's ODR capabilities will be essential for fostering greater consumer trust and ensuring robust protection in the region's burgeoning digital marketplace.

<sup>1</sup> Currently only the Philippines and Thailand have a national ODR system in place.

**Figure 2. Online Consumer Protection Policy Implementation and E-commerce Revenue Growth**



Source: Digital Policy Alert, 2024; Statista, 2024b.

Figure 2 highlights a positive correlation between legislative changes in online consumer protection and the growth in e-commerce revenue. Countries with a higher frequency of policy advancements tend to demonstrate greater increases in e-commerce revenue compared to those with fewer legislative updates. One key element driving this correlation is pre-contractual information duties, which require businesses to disclose essential information to consumers before a contract is concluded. These duties underpin the fundamental consumer right to be informed, shifting the focus from post-purchase redress to pre-purchase protection. This proactive approach reduces the likelihood of disputes and mitigates the challenges of international consumer litigation, which can often be costly, time-consuming, and inefficient.

Pre-contractual information duties are thus a critical component of e-commerce activities, ensuring transparency and fostering consumer trust. The EU's 2019 Omnibus Directive, which revised the 2011 Consumer Rights Directive (CRD), significantly enhanced pre-contractual information duties for online contracts. According to Eurostat, while the CRD cannot be solely credited with the growth in online purchases from 2014 to 2017, it contributed to a notable 3% increase during

this period. Similarly, the US Federal Trade Commission's (FTC) 2013 'Dot Com Disclosures Guidance' sets out clear expectations for pre-contractual information in online commerce.

These frameworks serve as international benchmarks for pre-contractual information duties, offering valuable models that AMS can adapt to enhance consumer protection in their digital economies.

### Policy Recommendations

- **Establish Obligations for Intermediaries:** Digital platform owners, including those operating peer-to-peer marketplaces, should be mandated to uphold minimum standards of protection. These should address fraudulent, misleading, or deceptive conduct, false representations, and require the inclusion of effective internal dispute resolution mechanisms.
- **Adopt Legal Instruments for Pre-Contractual Information Duties:** Appropriate domestic legal frameworks should be introduced to establish comprehensive standards for pre-contractual information duties, promoting information symmetry between consumers and suppliers in B2C contracts.

- Address Broader Aspects of Online Trust: Negotiations on the DEFA text regarding online consumer protection should include provisions on online trust and integrity. These should encompass data privacy, unsolicited commercial electronic messages, and competition policy, acknowledging the heightened vulnerabilities of online consumers compared to traditional commerce.
- Develop an ASEAN ODR Network: Efforts should be made to establish an interoperable ASEAN Online Dispute Resolution (ODR) network. This network should connect national ODR systems that are operational, enabling efficient cross-border consumer complaints and redress mechanisms across ASEAN jurisdictions.
- Enhance Transparency: The ASEAN Consumer website and the *Handbook on ASEAN Consumer Protection Laws and Regulations* should be regularly updated. This ensures that relevant laws and regulations remain publicly accessible, fulfilling transparency requirements and fostering consumer trust.
- Promote Consumer Empowerment: Ongoing initiatives should focus on training programs and information dissemination, including improving digital literacy to empower consumers in navigating the online marketplace securely.
- Align National Laws with International Commitments: ASEAN Member States that have yet to enact online consumer protection laws should ensure alignment with the RCEP E-Commerce Chapter, which came into effect on 1 January 2022. This alignment should be completed in time for the entry into force of DEFA upon the conclusion of negotiations.

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