

United Nations Conference on Trade and Development

UNCTAD



Report on Consumer Associations

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Abbreviations

ASEAN	Association of South-East Asian Nations
CI	Consumers International
ICRT	International Consumer Research and Testing
IOCU	International Organization of Consumers Union
MENA	Middle East and North Africa Region
MSDC	Ministry for Social Dialogue, Consumer Affairs and Civil Liberties, Malta
NACAB	National Association of Citizens Advice Bureaux, United Kingdom
NGO	Non-governmental Organization
OECD	Organization for Economic Cooperation and Development
UNCTAD	United Nations Conference on Trade and Development
UNGCP	United Nations Guidelines for Consumer Protection

Executive summary

Consumer associations are essential actors in the institutional frameworks for effective consumer protection. They represent the voice of the consumer and their overall participation in the policymaking processes that, in turn, help inform government policies. Consumers associations play vital roles in educating, advising, representing and counselling consumers so as to enforce their rights. They help reduce the imbalances between business and consumers by empowering consumers and giving them the confidence to make informed decisions.

The purpose of this *Report on Consumer Associations* is to provide an update on the current environment in which consumer associations operate. It is organized as follows: Part 1 serves as an overall introduction on modern consumer protection; Part 2 begins by outlining some of the historical contexts and describing the main roles of consumer associations; The focus then shifts in Part 3 to questions on how modern consumer associations work from the perspectives of their operating model, and their funding opportunities; Finally, a brief conclusion offers some insights on the increasing roles of consumer associations such as in policymaking and consumer protection laws.

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Table of contents

Abbreviations.....	4
Executive summary.....	5
2. What are consumer associations and what roles do they perform?.....	9
2.1 Definition and scope	9
2.2 A brief history	10
2.3 The roles of consumer associations	12
2.3 a) Representing the interests of consumers	14
2.3 b) Education and information programmes	16
2.3 c) Support in enforcement	17
2.3 d) Providing legal counsel, representation before court and dispute resolution	17
3. How do consumer associations work?.....	20
3.1 The operating model of consumers associations	20
3.1 a) Governance	21
3.1 b) Human resources and infrastructure	22
3.1 c) Income and expenditure	22
3.2 Funding	22
3.2 a) Grants	24
3.2 b) Testing and publications	27
4. Conclusion.....	28

List of figures

1. Consumer organizations and their operating environment.
2. What motivates consumers to make a complaint?
3. Outline of a consumer association operating model.

List of tables

1. Key considerations when developing an operating model for consumer associations.
2. Several examples of countries and the financial viability of their consumer associations.
3. Consumer Legal Action Fund of Hong Kong.

I. Introduction

When framing modern consumer protection in his special address to Congress on 15 March 1962, President John F. Kennedy said:

“Consumers, by definition, include us all. They are the largest economy group in the economy, affecting and affected by almost every public and private economic decision. Two-thirds of all spending in the economy is by consumers. But they are the only important group in the economy who are not effectively organized, whose views are often not heard.”¹

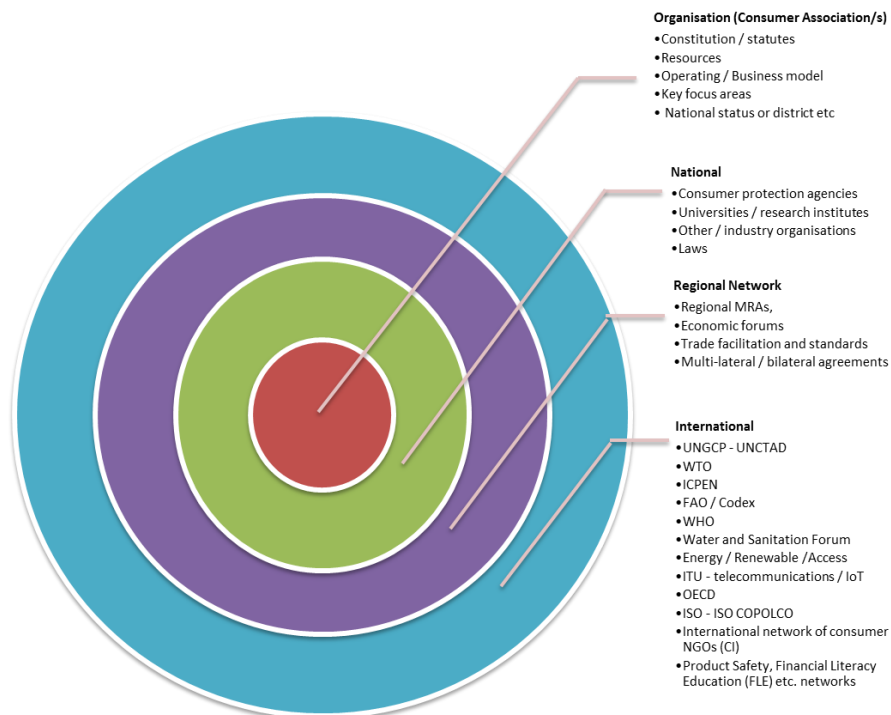
More than half a century later, consumers today still comprise dispersed groups that lack expertise and resources. Their voices are not readily taken into account by decision makers and, for this reason, consumer associations are essential actors in the institutional frameworks for effective consumer protection. Thus, they represent consumers' voices to a large degree and their participation in policymaking processes certainly helps influence the direction of government policies. Consumer associations, therefore, have an important role to perform in the educating, informing, representing and counselling of consumers. They narrow the inequalities between businesses and consumers, thus empowering the latter group with knowledge on their options and rights.

Consumer associations are integrated into a larger consumer protection system:

Figure 1

Consumer organizations and their operating environment

¹ See <https://www.jfklibrary.org/asset-viewer/archives/JFKPOF/037/JFKPOF-037-028>



SOURCE: Report on Consumer Associations, UNCTAD, 2019.

In terms of their organizational structure, consumer associations are conditioned by their statutes, available resources, local laws and the work of other organizations at national, regional and international levels.

Both locally and nationally, consumer associations educate consumers. They also whistle-blow on any breaches of consumer laws, monitor compliances with standards, while also advocating for change/s on behalf of consumers. Regional and international organizations have a forum for sharing experiences and this is a useful platform as it allows for multiplier effects, helping to mobilize international campaigns. Whenever appropriate, they can also act in support of consumers' interests in the international arena.²

The United Nations Guidelines for Consumer Protection (UNGCP), and revised by the United Nations General Assembly in 2015, are the global reference point on this issue. One of their objectives is to “facilitate the development of independent consumer groups.” As listed in UNCTAD’s *Manual on Consumer Protection*, the principles of collective and organized consumer movements - mostly in the form of consumer associations or organizations - are as follows:

- i. To establish an independent actor that is non-party political and non-commercial to represent the voice of the consumer, as well as to anticipate the impact of any given issue on consumer well-being;
- ii. To raise the concerns of under-represented groups of consumers, namely those who are illiterate, residing in remote areas as well as other vulnerable sectors of society;

² Food, Nutrition and Agriculture, 08/09, "Consumer Participation in Food Control," (FAO - FPND - FAO, 1993).

- iii. To improve the bargaining power of any under-represented groups of consumers;
- iv. To alert authorities about any illegal conduct by businesses;
- v. To create participatory decision-making, consultation and consumer associations that can form part of the democratic processes.³

What follows in Part 2 is a brief historical outline and also a description on the primary roles of consumer associations.

2. What are consumer associations and what roles do they perform?

2.1 Definition and scope

Internationally, there is no set agreement on how best to define a consumer association. In general though, consumer associations - also known as consumer organizations or consumer groups⁴ - are considered to be non-governmental civil society organizations that represent consumers' interests, while defending their rights in the marketplace. Although they are usually non-profit making, and largely independent from governments or businesses, they may be fully, or partially, financed by a government or other agencies.

Today, the work and achievements of consumer associations in consumer protection are widely accepted, and they now represent consumers' interests in the following areas:

- i. National constitutions;
- ii. Consumer protection statutes;
- iii. National consumer policy documents;
- iv. Consumer redress mechanisms such as consumer courts and alternative dispute resolution mechanisms;
- v. Industry mediation bodies;
- vi. Industry regulatory processes;
- vii. Codes of practice;
- viii. National-level government-sponsored committees.⁵

³ UNCTAD *Manual on Consumer Protection*, p. 32.

⁴ The use of terms is country-specific.

⁵ UNCTAD *Manual on Consumer Protection*, p. 37.

2.2 A brief history

Historically, consumer movements were actually promoted by States when faced with the need to ration food and other resources.⁶ In spite of this, however, the recognition of consumer associations has not always been forthcoming from the authorities.

Throughout history, there have been many spontaneous consumer protests, especially regarding food. Key examples of this are both the French and Russian revolutions.⁷ The concept of actual consumers' rights could be said to have its origins in the period of rapid industrialization as this new form of economy distinctly separated producers from consumers. In the initial years, the movement took the form of consumer cooperative shops across an industrializing Europe - countries such as Great Britain in the mid-nineteenth century, then Germany, France and Italy a little later. Of note, Japan also had its adherents to the cooperative model and instances of cooperative financial institutions have existed there as early as the thirteenth century.⁸

During the nineteenth century, various social groups became concerned with equality, namely the right for all to participate in the overarching consumerist society. Examples were the National Consumers Leagues of Continental Europe and North America, the anti-sweating campaigns in Great Britain, or the living wage campaign of the United States of America labor movement.⁹ During the First World War, consumer associations developed across Central Europe in response to the vicissitudes and circumstances of that time.¹⁰

In 1928, the Consumers Union was created in the United States of America. This union became the first modern consumer association that focused on testing similar products from different brands. Additionally, they published their results periodically.¹¹ This model of independent publications, supported by the detailed technical assessment of consumer products, was highly successful in North America. Subsequently, it was exported to the rest of the world. The Consumers Association of the United Kingdom of Great Britain and Northern Ireland, for example, received their initial financial assistance from their North American colleagues. Both grew exponentially on both sides of the Atlantic during the 1950s, acquiring mass membership bases due to their testing of products on the market. Its magazine, titled "*Which*" reached one million members at its peak. Belgium and the Netherlands combined had the highest percentages of households buying magazines on product testing in the world. Over time, those associations that published product testing magazines relied financially on the actual subscriptions, which operated on commercial lines, albeit with a non-profit

⁶ Ibid., p. 30.

⁷ Schama, Simon, "Citizens: A Chronicle of The French Revolution," cited in Paul Bushkovitch, 2012, *A Concise History of Russia*, New York: Cambridge University Press.

⁸ Trentmann, F., op. cit.

⁹ Hilton, Mathew, 2008, "The Death of Consumer Society," in *Transactions of the Royal Society*, p. 213.

¹⁰ Ibid.

¹¹ In 2012, there were eight such associations in the United States of America with annual revenues in excess of US\$ 2 million. Examples of these publications on a global scale are: the *Consumer Report*, USA; *Choisir?*, France; and *Test*, Germany. The Consumers Union in the United States of America had revenues of US\$ 250 million and three other such organizations had budgets in excess of US\$ 8 million. During this time, the more affluent consumers purchased, or subscribed to, these magazines/publications in order to help them make informed purchasing decisions.

making status. Some product testing magazines were launched by governments - Norway, Sweden and Austria are examples of countries that received a combination of subscriptions and public subsidies. Some consumer associations were formed with the active participation of labour unions and tenants associations - France being a good example of the latter.¹²

Of note, the testing of products is intrinsically expensive. Therefore, whenever products are available on international markets, it makes perfect sense for consumer associations to pool their resources. Following a period of informal and bilateral cooperation between associations, some of the larger testing organizations - evidently with greater resources - came together in 1990 to form the group, International Consumer Research and Testing (ICRT). The ICRT is a global consortium comprising 35 consumer organizations across 33 countries and is dedicated to carrying out joint research and testing in the interests of consumers.¹³ ICRT runs more than 50 large-scale joint tests as well as numerous smaller ones per year. As a result of resource pooling, it can significantly reduce the costs for smaller organizations.

In the transitional economies of Central and Eastern Europe, the expenses involved in testing - coupled with the more volatile market conditions - made it difficult to establish, publish and then sustain regular product testing magazines. This was also the case in some larger markets such as the Russian Federation. Consumer associations there often drew their historic legitimacy from local "clubs." Sometimes their methods were based around home economics associations - that had already formed their direct contacts with the general public before the arrival of the market economy. The same link with local associations can also be found in the Chinese Consumers Association. By 2010, there were over 3,250 consumer associations at country level, plus 156,000 local ones, and with a total of approximately 12.5 million consumer complaints.¹⁴

The development of a worldwide consumer "movement" is reflected by the increases in participatory countries as well as in the membership numbers of Consumers International (CI). In 1960, several of the organizations throughout the United States of America and Europe came together to form the International Organization of Consumers Union, IOCU for short, which was the predecessor of the current CI. During that same period, structured consumer movements also began to appear in Southeast Asia. Examples are: (1) Consumers' Federated Groups of the Philippines, 1963; (2) Selangor Consumers' Association, 1965; (3) Consumers' Association of Penang, 1969; (4) Consumer Association of Singapore, 1971; and (5) Indonesian Consumers' Organization, 1973.

During the 1980s, consumers associations across Latin America emerged, beginning in Brazil, Uruguay, and Argentina.¹⁵ Of particular note here, consumer associations throughout the MENA region gained momentum in the 1990s. As a result, many of the national consumer protection laws were enacted from this period and continue to evolve today. For instance, the first consumer association in Algeria was established in 1978 - and well before the relevant legal framework was drawn up. In Morocco, consumer protection associations have also been very active, sharing a

¹² *Manual Consumer Protection*, op. cit., p. 31.

¹³ ICRT, 2016, *International Organizations*.

¹⁴ Yu, Y., and R. Simpson, 2013, "International Forum on Justice and Consumer Rights," University of Wuhan, China.

¹⁵ Sánchez Legrán, Paco and Paco Luis Murillo, 2011, *El Movimiento de Defensa de los Consumidores en América Latina y el Caribe*, Fundación FACUA para la Cooperación Internacional y el Consumo Sostenible, Seville: Spain, p. 31. Retrieved from https://www.fundacionfacua.org/documentos/libro_america_latina.pdf

similar history. To date, there are approximately 100 such associations throughout Morocco - all mainly grouped into three regional confederations.¹⁶ By 2018, the number of large-scale consumer associations throughout the MENA region had reached 67, including six at national levels.

2.3 The roles of consumer associations

The *UNGCP* frequently references and highlights the important role of consumer associations. Guideline 1e asks that governments adopt a stance that will “facilitate the development of independent consumer groups.” This can, equally, be understood as the need for governments to provide some level of financial support. Guideline 5h details the legitimate need for “freedom to form consumer and other relevant groups or organizations and the opportunity of such organizations to present their views in decision-making processes affecting them.” The *UNGCP* contains specific references to their research. Example are in the monitoring of “adverse practices” (Guideline 21); “misleading environmental claims” (Guideline 30); their involvement in consumer education (Guideline 42); in environmental education (Guideline 45); and in the development of industry codes (Guideline 31). The reference in Guideline 35 highlights the need for governments to “encourage and ensure the availability of facilities to test and certify quality and performance of essential goods and services.” This does imply the possible inclusion of consumer testing bodies, even if it is not overtly stated.¹⁷

As a result of their 2015 revision, the *UNGCP* does now refer to the role of consumer associations in dispute resolution and redress mechanisms under Guideline 41. Additionally, the reference to “community participation” - in terms of utilities and the energy sector - has also been explained in greater detail under Guideline 76.

The *UNGCP* encourages the participation of civil society in consumer protection by:

- i. Monitoring fraudulent business practices;
- ii. Monitoring claims – examples being environmental claims;
- iii. Monitoring marketing and developing marketing codes;
- iv. Strengthening understanding among consumers on dispute avoidance and dispute resolution;
- v. Involvement in general consumer education and information programmes;
- vi. Undertaking the organization of educational and information programmes; and
- vii. Facilitating cooperation with the aim of strengthening capacity in sustainable consumption.

¹⁶ UNCTAD, 2018, *Voluntary Peer Review of Consumer Protection Law and Policy of Morocco*. Retrieved from https://unctad.org/en/PublicationsLibrary/ditccplp2018d1_en.pdf

¹⁷ *UNCTAD Manual on Consumer Protection*, p. 37. See also https://unctad.org/en/PublicationsLibrary/ditccplpmisc2016d1_en.pdf

The *UNCTAD Manual on Consumer Protection* sums up the role of consumer associations as:¹⁸

- i. Providing independent information (including test or survey results) on products and services, as well as educational activities to enable consumers to make informed choices and to consume responsibly;
- ii. Organizing campaigns on specific issues to enable consumers collectively to voice their views and demonstrate their strength. This varies from organizing lobbies of parliament and coordinated press campaigns to signature/letter-writing campaigns, and even boycotts and rallies;¹⁹
- iii. Advising and acting on individual consumer complaints, providing advice and obtaining redress; this may extend from participation in dispute resolution bodies to engaging in public interest litigation on behalf of consumers;
- iv. Engaging in dialogue with government and business to inform, persuade or negotiate on behalf of consumers. This may include, for example, organizing workshops and seminars on particular issues to highlight alternative views on these issues to policymakers, businesses and media sectors;
- v. Representing consumer views to official committees such as those organized by utility regulators and enquiries around the 2011 crisis in financial services; and
- vi. Conducting surveys and research to study problems faced by consumers, including the impact of government policies on consumers and highlighting the findings to consumers, policymakers and the media.

There are vast differences in the ways consumer associations operate. This often depends on factors such as the economic status of the country. In economies, for example, where the consuming public is relatively well-educated and resourced, then the comparative testing and dissemination of useful information to consumers has been the main role of consumer associations. As stated, millions of consumers subscribe to their magazines and/or to the burgeoning and popular online services. In developing countries, however, consumer associations have adopted a “basic needs approach,” and this may mean getting involved at local levels by educating and empowering consumers on issues such as their rights. At the same time, consumer associations are advocates for and represent those topics and needs of consumers at national levels. Interestingly, there is a convergence of basic needs and richer consumers as choice websites for energy services rapidly grow. Of note, these are also becoming a major service that is provided by associations in Europe to all their members. Equally, there are echoes of the past as consumer cooperatives pool their resources in order to provide fuller services. It should also be taken into account that one of the principle problems of cooperatives for

¹⁸ *Ibid.*, p. 32.

¹⁹ Twenty-four hour telephone boycotts have been particularly successful in gaining attention in Peru, Lebanon and Portugal.

public policy in the past was how best to help non-members who often were the poorest sectors of society and, therefore, the most in need.²⁰

There are three areas of work that are particularly relevant for consumers associations worldwide. They are: (1) representing consumers' interests; (2) designing and conducting education and information programmes; and (3) providing support in order to enforce consumer protection laws as well as legal counsel, representation before court and dispute resolution. A discussion on these now follows.

2.3 a) Representing the interests of consumers

As highlighted above, consumer associations represent consumers' interests by voicing their preferences, priorities and concerns. Equally, they engage in decision-making processes on behalf of consumers. The *UNCTAD Manual on Consumer Protection* outlines some of the characteristics of this role, namely:

i) Representative base

Consultation is an essential feature, resulting in valuable and effective representation. The absence of a significant membership and of established consultation mechanisms can compromise the representative role of consumer associations. This poses questions such as "can consumer organizations with limited membership realistically claim to represent consumers' interests?" And, "can consumer associations be more successful in setting priorities, identifying regulatory targets, and implementing strategies than public agencies?" Many strive to be representative and in order to be so, it helps to have a broad membership base with consultation mechanisms in place. However, some caution is needed when it comes to recognition. Small organizations will experience difficulties in securing a representative role when starting out, especially when articulating a response to an issue which may have developed rapidly. An example of this might be in response to a public health emergency.

ii) Competing organizations

In some countries there are numerous consumer associations competing and claiming to be the legitimate representatives of the consumer movement. Questions immediately arise on issues of overall authority. For example, who decides on which association will best represent the interests of consumers? In such cases, it is often the regulators that determine which one they will recognize and fund, thereby conferring legitimacy. Consequently, there is the risk of what might be termed as "capture" of the association. Should this occur, then the consumer association may well feel obliged to ensure that consumers' views are "acceptable" to the regulatory authorities providing the funds. The concern is that these groups alter their operational modes in order to remain "legitimate" in the

²⁰ *UNCTAD Manual on Consumer Protection*, p. 40.

eyes of their specific governments. Conversely, groups that are critical of, or even distrusted by, government agencies often experience obstacles. An example might be when accessing information and during the consultation processes. Such exclusions narrow both the policymaking processes and the acceptance of a wide range of views.

iii) Competing interests

Consumer groups attempt to represent the interests of consumers. However, it should be noted that any individual action rarely represents the interests of all consumers. Indeed, the conflicting interests of various categories of consumers - such as nationality, ethnicity, locality, employment, gender, age or income - may result in giving some precedence to specific consumer groups over others. Additionally, further divisions are also reflected in the levels of educational attainment among consumers. As an ever increasing quantity of complex products are now being sold online, or via the use of mobile telephones such as financial services, then the risks to consumers with limited literacy or numeracy also increases accordingly. Choice-enhancing remedies and actions that make information readily available to consumers clearly benefit middle as well as higher income consumers more than less advantaged groups. Indeed, the risks are always present and any decisions regarding policy may even be detrimental to lower income consumers.

The key point to bear in mind here is that any single matter, in terms of the interests of consumers, cannot be understood and viewed as a standard entity. Conflicts do exist and they may pose any number of serious issues. For example, consider the conflicts that can arise between households that are connected to electricity and water grids, and that also benefit from lower tariffs. Then there are those households that are yet to be connected and for whom the actual connection charges are real concerns. In this context, the interests of the non-consumers - those that remain disconnected - will be ignored, while those of existing customers are being met.

iv) Quality and competence

The range and complexity of issues relating to consumers have increased significantly over the years. If consumer representatives are to adequately promote the interests of consumers, then they must marshal their knowledge and relevant expertise accordingly. The problem is especially acute for consumer groups that lack the necessary resources to undertake, or commission, quality research. This is often the case with consumer groups in poorer countries as they obviously suffer from having limited access to information. This does not mean, however, that consumers are unable to form associations until such a time as and when they do have substantial financial resources. Indeed, some effective and courageous consumer NGOs have formed over the years as a result of the frustrations caused by a lack of information over specific and pressing issues. This has occurred during times that did not necessarily require the associations to address the preliminary scientific evidence and reports.

Cases have arisen due to a lack of access to essential services or real concerns over safety. An example of the latter is the work undertaken by the association of Ukrainian women, known as MAMA '86. They made a political stand in protest against the lack of transparency regarding available information directly following the Chernobyl nuclear power station disaster in 1986. Concerns for local people's safety, especially clean water supplies, became their focus.²¹ Between 2006 and 2007, the Association of Energy Consumers in Cameroon - the *Réseau associatif des consommateurs de l'énergie* (RACE), protested against the general lack of connectivity to electricity supplies. This came in spite of the reassurances that they were given after a concession was granted to supply power to a nearby aluminium smelting plant.²² It is worth noting that such movements often arise in response to single issues and associations cannot realistically be expected to cope immediately with the full breadth of the consumer horizon. Such action and scope would present challenges for even the best equipped organizations.

2.3 b) Education and information programmes

One of the most important roles of the consumers association is to provide independent information, including test or survey results on products and services. Equally, they undertake educational activities and they enable consumers to make informed choices and to then consume in a responsible manner.²³ It has been emphasized here that consumers should be duly informed of issues of direct interest to them such as: (1) product safety incidences, accident reports and poisonings; (2) incidences of food, cosmetic or medicine adulterations; (3) counterfeit products; (4) privacy and data protection; (5) labelling; and (6) health hazards from street food vending, to list but a few issues. Consumer empowerment is primarily about consumers being aware of their rights and knowing how to enforce them. Consumer associations play a pivotal role in this regard.

It is strategically important for consumer associations to build solid communications networks as this gives them the capability and capacity of reaching out to consumers by all available means. This involves some of the following processes in particular:

- i. Public outreach – talks, mini workshops and annual nationwide consumer educational programmes for young people. Also contests and community projects;
- ii. Social media campaigns - forging direct contact with consumers, wide dissemination and multiplier effects;
- iii. Publications - in the form of infomercials, brief flyers, handbooks, guides and school curriculums;
- iv. Briefing papers - newsletters on consumer issues;

²¹ See Muller, M., M. van Ginneken, and R. Simpson, 2008, *Ways to Improve Water Services by Making Utilities More Accountable to Their Users*, a World Bank publication.

²² RACE, 2008, *Energie Info, bulletin bimestriel d'information et de liaison des consommateurs de l'énergie*.

²³ On responsible consumption, refer also to the United Nations Sustainable Development Goal No. 12: "Ensure sustainable consumption and production patterns," available at <https://www.un.org/sustainabledevelopment/sustainable-consumption-production/>

- v. Testing and test reports;
- vi. Media or press conferences; and
- vii. Surveys and polling.

2.3 c) Support in enforcement

In some Members States of the European Union, consumer associations enforce consumer protection laws alongside public bodies. For example, in Germany, the consumer advice centre, *Verbraucherzentralen* often acts in unison with business associations. The *OECD Report on Consumer Protection Enforcement*, and published in 2018, reported that in Austria the enforcement of consumer protection laws is mainly sought through injunctions brought by consumer associations - although administrative fines are imposed by consumer protection governmental agencies.²⁴

Some associations have argued for the right to assume executive responsibilities on the Boards of consumer protection agencies. However, this move has been resisted by some governments and also discouraged by other consumer associations on the grounds that it could lead to a conflict of interests and, ultimately, compromise the very independent nature of associations.

In practice, partnerships of varying degrees of formality have developed over time. Consumer associations regularly alert agencies to any breaches in consumer protection laws. The emerging consensus is that it is best for government agencies to be entrusted with investigating and imposing the administrative measures, while associations continue to represent the core interests of consumers.

2.3 d) Providing legal counsel, representation before court and dispute resolution

One of the traditional roles of consumer associations is to provide legal counsel to consumers when faced with claims against businesses. In many countries, consumer associations also represent the interests of consumers, and defend their rights in the courts through both individual and collective actions. Lately, some consumer associations also provide alternative dispute resolutions for consumer-to-business disputes.²⁵

i) Legal counsel

In general terms, consumers are less aware of their rights in the marketplace than businesses. Should a consumer claim arise, then consumer associations can address this imbalance by providing consumers with legal counsel. Some associations have introduced this role as part of their business model. In doing so, they charge consumers a small fee for legal counsel. Should consumers choose to

²⁴ OECD, 2018, "Consumer Protection Enforcement in a Global Digital Marketplace," *OECD Digital Economy Paper*, No. 266 (March), Ch. 2.

²⁵ See UNCTAD, Secretariat note, 2018, "Dispute Resolution and Redress," TD/B/C.I/CPLP/11.

pursue their claims then consumer associations may also provide representation before court, or a dispute service.

ii) Representation before court

Access by consumers to judicial redress is a common feature throughout all the UNCTAD Member States.²⁶ The traditional adversarial system has evolved in accordance with the specificities of consumer disputes. The first point worthy of note here is that consumer law holds a "presumption of imbalance" that, effectively, favours businesses before consumers. The information and bargaining power asymmetry that exists between consumers and businesses, therefore, justifies the supplementing of traditional civil courts procedures with specific models. Essentially, these models provide consumers with a level-playing field, allowing them to settle disputes and defend their rights in the process. Secondly, judicial proceedings can present significant barriers for consumers. Some of the factors that might dissuade consumers from undertaking judicial claims are: (1) the financial cost of judicial proceedings, including exposure to adverse costs should the consumer lose; (2) the lengthy duration of the procedure; (3) the complexity of the law and the legal process; (4) the costly requirements of legal assistance; and (5) the often low economic value of claims.

Some countries have introduced palliative measures to make judicial proceedings more consumer-friendly. This is the case in Germany where, for example, there is widely available insurance for legal claims as well as free legal aid for consumers. Other countries have established small tribunals for claims of low financial value. Regarding cross-border claims, the European Union introduced a small claims procedure which is enforceable through the national courts of the consumer's country of origin.

Since individual consumer claims are generally of low value, the aggregation into class or collective action can provide significant avenues of redress for consumers. Collective redress²⁷ can arise when individual consumers who "suffered the same, or very similar loss or harm caused by the same trader, come together and seek redress in court as a group, in one legal claim."²⁸ The use of class actions as collective redress is also well established in Chile and the United States of America where it "empowers consumers to even the playing field in their disputes with better funded and superiorly situated fraudulent business."²⁹ This trend has been introduced in Europe, albeit timidly, where admissibility criteria are somewhat stricter.³⁰

As recommended under the United Nations Guideline 37, a growing number of countries are granting consumer organizations *locus standi* to defend not only individual claims but also collective ones.³¹ Many countries now allow representative claims by consumer associations for

²⁶ TD/B/C.I/CLP/23, para. 25, *op. cit.* 26.

²⁷ Collective redress is assimilated to collective litigation, although Hodges points out that redress is a goal, litigation a technique, and dispute resolution a regulation. See Hodges, C., 2014, "Collective Redress: A Breakthrough or a *Damp Sqibb*?" *Journal of Consumer Policy* 1. 37: 67 – 89. Retrieved from <https://link.springer.com/article/10.1007/s10603-013-9242-0>

²⁸ The European Consumer Organization, 2017, "European Collective Redress - What is the EU Waiting For?" *BEUC* (No. 086).

²⁹ United States of America, 1995, *Teller v. Bill Hayes Ltd.*, 630 N.Y.S. 2d 769, 744 (2nd Dept).

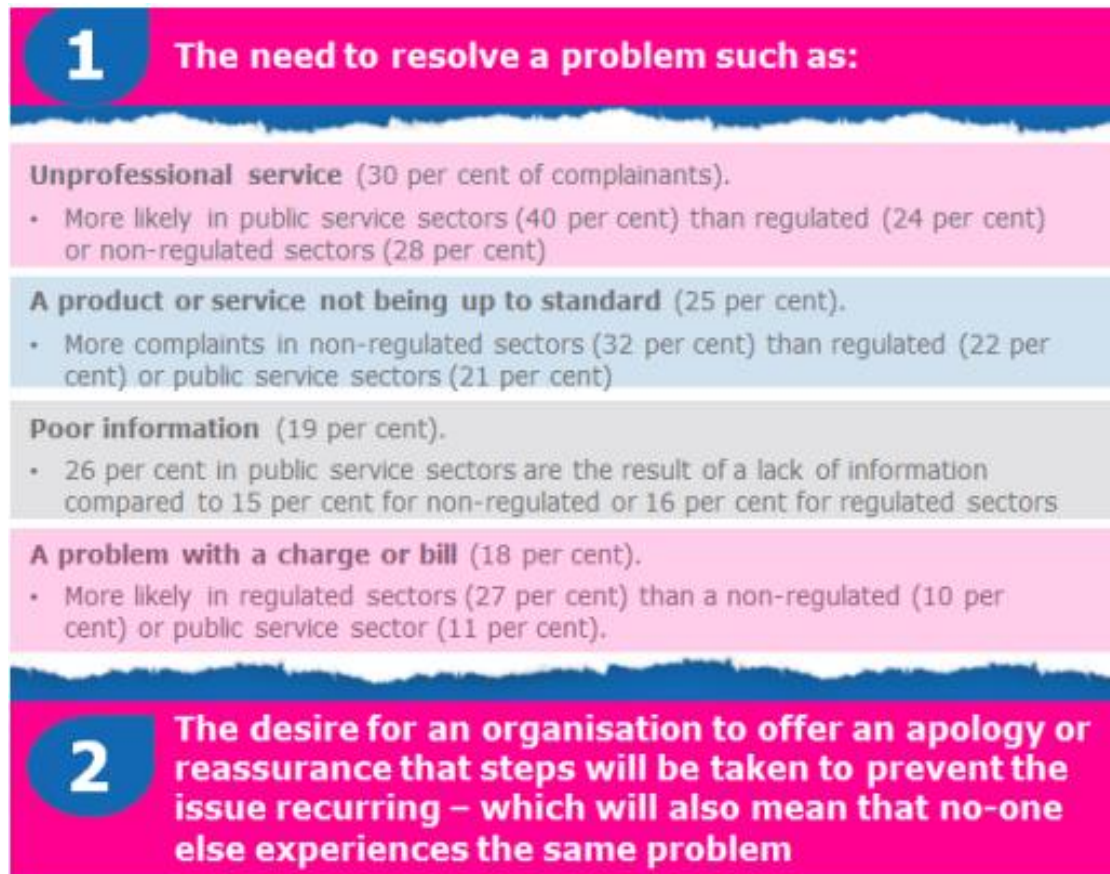
³⁰ The European Consumer Organization, 2017, "Where Does Collective Redress for Individual Damages Exist?" *BEUC* (No. 117).

³¹ UNCTAD COMPAL Programme, 2012, "Revisión de las Directrices de Naciones Unidas sobre Protección del Consumidor," in Capítulo E "Medidas que permiten a los consumidores obtener compensación." Working document for discussion in //

injunctive moves to protect the collective interests of consumers. However, the use by consumer organizations of collective damages claims is less widespread. Examples of the latter are in Algeria, China, France, Morocco, and Peru, to list but a few, where a specific accreditation from governmental authorities, that permits consumer organizations to act, is a prerequisite.

Figure 2

What motivates consumers to make a complaint?



SOURCE: *Understanding Consumer Experiences of Complaint Handling*, Citizen Advice, 2016.³²

In Part 3, the focus shifts to questions on how modern consumer associations work from the perspectives of their operating model and their funding opportunities.

International Forum on Consumer Protection, 11 – 12 November, Lima: Peru. Retrieved from https://unctadcompal.org/?post_type=documento&p=4318&preview=true (accessed 5 March 2018).

³² Retrieved from [https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer%20publications/Understanding%20consumer%20experiences%20of%20complaint%20handling_DJS%20report%20final_June2016%20\(2\)%20\(1\).pdf](https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer%20publications/Understanding%20consumer%20experiences%20of%20complaint%20handling_DJS%20report%20final_June2016%20(2)%20(1).pdf) (accessed 5 March 2018).

3. How do consumer associations work?

3.1 The operating model of consumers associations

The nature and structure of consumer associations have a significant bearing on their capacity to influence consumer protection policies, as well as on their overall implementation and enforcement. In the first instances, the societal status of any national consumer association is both determined and influenced by the specific levels of general development, education, security, as well as by the quality of the basic infrastructures in place.

Table 1
Key considerations when developing an operating model for consumer associations

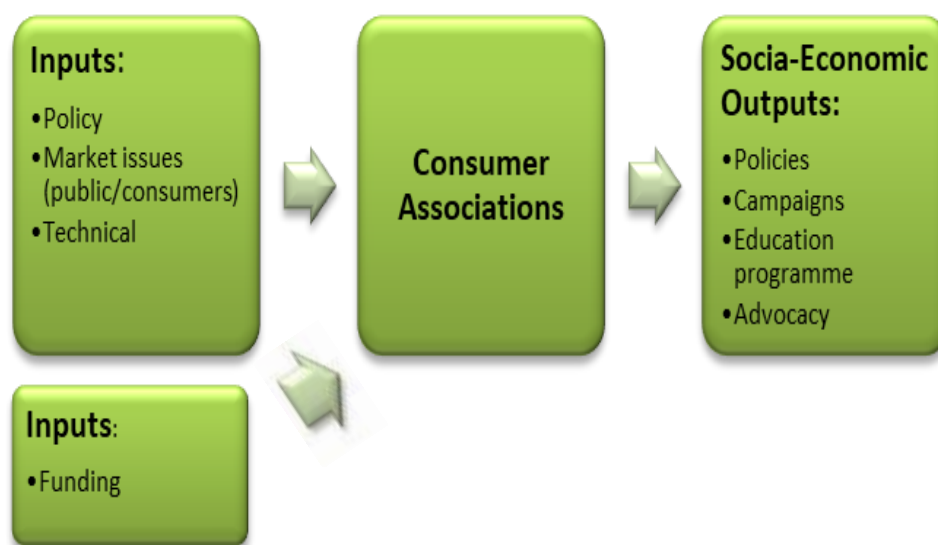
Considerations	How ?
Identify issues of immediate interests to consumers	<ul style="list-style-type: none"> • Interview members of community; • Complaints records; • Media reports; • Incident reports (hospitals, for example) • Are there other community-based organizations or individuals in the community or country addressing similar issues? Small or new consumer associations benefit from coalition in terms of outreach, human resources and financial resources.
Stakeholder analysis	<ul style="list-style-type: none"> • Who are those affected negatively by the issues and can they seek redress, or easily resolve any disputes resulting from the issues they face? • Who is contributing towards or perpetuating the issues? • Who has the control over the issues (directly and indirectly)? • What avenues can be explored in order to engage with each stakeholder?
Approach and structure	<ul style="list-style-type: none"> • Collaborate with existing networks or associations or establish new one or expand scope; • Stakeholder engagement methods: forums, workshops, focus groups, interviews, surveys, consultations, and so forth; • Documentation, record keeping and reporting needs; • Communication and visibility: press conferences, publications, collaterals (flyers, brochures), talks, announcements, community forums, and so forth.
Relevant laws and regulations	<ul style="list-style-type: none"> • Laws governing establishment of consumer association; • Government policies on engaging with consumer associations, or civil/community-based organizations; • Laws, policies and strategies related to the specific consumer issues – redress, fair trade practices, dispute resolution.
Resources	<ul style="list-style-type: none"> • Access to issue experts: ex-industry personnel, researchers, university researchers; • Human resource needs: qualifications, skills, experience, and so forth; • Equipment and space; • Funding: government grants, membership subscription, sales, and so forth; • There are also incidents beyond your control which might hamper your efforts to address consumer issues in your area or country – political climate, non-inclusive policies by neighboring countries or trading nations.

SOURCE: Report on Consumer Associations, UNCTAD, 2019.

The general operating model of consumer associations is based on translating technical, market and policy inputs into social and economic outputs that are useful for consumers.

Figure 3

Outline of a consumer association operating model



SOURCE: Report on Consumer Associations, UNCTAD, 2019.

An effective operating model for consumer associations is determined by the following factors:

3.1 a) Governance

- i. The governance system needs to ensure that the consumer association is independent, transparent and accountable in its operations;
- ii. A Board, or Council, should oversee the operations and financial reports of the consumer association. The Board, or Council, should operate at a strategic level, providing directions and high-level planning;
- iii. The Board, or Council, should be independent from the association's day-to-day running of its operations.

3.1 b) Human resources and infrastructure

- i. The staff of consumer associations aim, whenever possible, to make positive contributions to society in general. Young and qualified professionals in urban areas regularly volunteer or seek an internship with a consumer association. Founders of consumer associations may well have taken this exact route during their spare time, working voluntarily until such times as and when steady sources of income are secured;
- ii. As associations grow, top management personnel need to invest both time and resources in capacity building, strategic planning, and sound management practices in moves to recruit the best professionals.

3.1 c) Income and expenditure

- i. Income should be sufficient to cover operating costs of the association;
- ii. Independently audited accounts and financial statements are key to good governance, and such information is often requested by potential donors.

3.2 Funding

The funding of consumer associations is a complex issue as it relates to consumer representativeness, while also raising questions on any potential conflicts of interests. Financing from either industry or government poses obvious problems in terms of declaring an "independent" status. To address this issue, some consumer bodies - that are in receipt of public funds - have managed to maintain a high profile as well as autonomy in policymaking. A useful example, that could help resolve the issues of independence, is to develop industry-financed mediation and representation services. Such services could possibly incorporate the above mentioned representatives, and all financed through a general levy paid into a standing fund. The result of such an approach would mean that no direct link between a specific company and consumer body would be present. This process can be funded by a small fraction of consumer utility bills as, indeed, has been customary in the cases of state regulatory commissions for energy in both the United States of America and in the provinces of Canada.³³ Another approach during the former Soviet Union was for NGOs to be financed from fines accrued following those cases against businesses that were found to be in violation of the consumer protection law.³⁴

Such procedures could be strengthened by the recognition, sometimes in statute, of the right of consumer associations to be represented when important regulatory decisions are to be reached. A

³³ Lazzarini, M., 2004, "Improving Utilities," A Key Address to the World Bank.

³⁴ At the time of writing, this was also the case in Uzbekistan, Moldova and Belarus.

duty on regulators to consult can possibly also be imposed, but any such action should stop short of making the consumer representatives members of the regulatory Board itself. When Board membership also requires participation in decision-making - all the while being bound by confidentiality - then this prevents consumer representatives from sharing information with the very people they are representing.

Individual representation on a case-by-case basis has also been made financially possible by a variety of sources. These have included a proportion of the income from fines being used to fund consumer associations. While the award of such funds may be independent of the protagonists, one problem could be that it reduces real incentives for the association to adapt and embrace alternative dispute resolution mechanisms. At the very least, consumer associations would expect court expenses to be met if they are to represent consumers. In several jurisdictions, this has been a longstanding practice, such as in Eastern and Central Europe.³⁵

The financial viability of consumer organizations, as outlined, may pose difficulties for them in their efforts to maintain their independence. While many consumer associations in developed countries have a reasonably strong financial footing through sales of their magazines, which proved to be remarkably resilient during the financial crisis, this is not the case in developing countries where such a large subscription base does not exist.³⁶ For consumer associations in developing countries, the bulk of their funding is frequently sourced externally and they are, consequently, vulnerable to any restrictions that might be applied by their donor agencies. Of note, this may even include their own governments. Overall, such consumer associations constantly face a balancing act in order to survive with a decent level of operating resources at their disposal. Whenever possible, it is advisable that consumer associations diversify their funding sources so as to remain financially sound and, therefore, sustain their consumer protection activities without risking their independence and integrity.

³⁵ *UNCTAD Manual on Consumer Protection*, pp. 41-43.

³⁶ The use of many consumer association services rose during the financial crisis for obvious reasons, but the extent to which this translated into membership has not been systematically researched.

Several examples of countries and the financial viability of their consumer associations

Examples:

1. CASE – Singapore 2015 ; Income:	
• Grants/Sponsorship	- 26.6%
• Investment Income	- 30.8%
• Other gains and tax deduction	- 42.6%
2. Consumer Council of Fiji – Annual Statement 2013 ; Income:	
• Grant from Government of Fiji	- 96%
• Other grants	- 4%
3. Consumer Energy Alliance, Australia - 2016 Annual Report; Income / Revenue	
• Members and Operational Services	- 90%
• Energy Day	- 10%
4. Consumer Council Hong Kong – 2016 Income:	
• Government subvention	- 85%
• Non-recurrent projects subvention	- 10.4%
• Sales of CHOICE Magazine	- 1.9%
• Others	- 3.2%
5. Consumer Report – US 2016 Financial Report – Income / Revenue	
• Subscriptions, newsstand, and other sales	- 86.6%
• Contribution	- 11.6%
• Others	- 1.8%

SOURCE: Report on Consumer Associations, UNCTAD, 2019.

There are three main sources of funding for consumer associations, namely: (a) grants - national and international government funds; (b) testing and publication subscriptions; and (c) membership fees. These are now discussed in greater detail below.

3.2 a) Grants

National government grants

Some countries reserve a percentage of their national budget in order to fund consumer associations. This measure is clearly intended to advance consumer empowerment throughout the marketplace. The Consumer Welfare Fund of India was established according to such principles by the Department of Revenue. Today, it falls under the Ministry of Consumer Affairs, Food and Public Distribution as part of the Department of Consumer Affairs. The Fund was created to provide financial assistance in moves towards promoting and protecting consumer welfare. As part of this process, it also stimulated nationwide consumer awareness and strengthened the overall consumer movement, particularly in rural areas. Under the Fund's rules, any organization engaged in consumer welfare activities for a period of three years - and that is registered under the Companies Act - automatically becomes eligible to seek financial assistance from the Fund.³⁷

³⁷ Ministry of Consumer Affairs, Food and Public Distribution, Consumer Affairs Department, Consumer Welfare Division Fund. For further information on funds, see <https://consumeraffairs.nic.in/forms/contentpage.aspx?lid=73>

The Malta Voluntary Organisations Project Scheme is an initiative that is run and managed by the Ministry for Social Dialogue, Consumer Affairs and Civil Liberties (MSDC). In turn, it is administered by the Malta Council for the Voluntary Sector (MCVS). As a project scheme, it is allocated a fund of 700,000 Euros, and with the call for applications being made by the MSDC. The guidelines are published on the worldwide web as follows: (1) Malta Council for the Voluntary Sector at www.maltacvs.org; and (2) the New Funding Portal at www.vofunding.org.mt.³⁸

During the 1970s, consumer protection was prioritized in Great Britain. This resulted in a development grant being given by the government to the national charity, the National Association of Citizens Advice Bureaux (NACAB). It was used to partly extend their overall network throughout society. In 2002, the NACAB received a further government grant totalling 20 million pounds sterling from the Capital Modernisation Fund. In turn, this sum was used to develop e-government information services, allowing open access for all people in need of the services offered by Citizens Advice.³⁹ Of note, NACAB changed its name in 2003 to the simpler form, Citizens Advice.⁴⁰ Additionally, the Citizens Advice receives core funding from the Department for Business Innovation and Skills (BIS).

In 2016, the Moroccan Ministry of Industry, Investment, Trade and Digital Economy launched numerous packages of financial support for consumers associations. Their purpose was educational and, therefore, intended to generate higher degrees of awareness amongst consumers. In 2017, the Ministry signed new financing agreements with three federations of consumer protection, namely:

- i. Moroccan Federation of Consumer Rights (FMDC);
- ii. National Federation of Consumer Associations (FNAC); and
- iii. Southern Federation of Consumer Protection Associations (FSAC).

The Ministry also provided technical assistance through organized "consumer counters," or "advice points," known as *guichets consommateurs* in French, and operated by the consumer protection associations. In turn, this led to the drafting of a standard operating manual for the consumer counters.⁴¹

³⁸ Voluntary Organisations Project Scheme, Malta. Retrieved from <http://maltacvs.org/voluntary-organisations-project-scheme-vops/>

³⁹ Citizens Advice, "History of the Citizens Advice Service." Retrieved from <https://www.citizensadvice.org.uk/about-us/how-citizens-advice-works/who-we-are-and-what-we-do/history-of-the-citizens-advice-service/>

⁴⁰ The Citizens Advice Bureau was established in 1939 throughout the UK in order to address aspects of social disorganization during the Great Depression. The Citizens Advice, United Kingdom is a national registered charity with 307 local Citizens Advice offices - all of which are individual charities in their own right. As a unified whole they make up the Citizens Advice service. It provides free and independent advice to help people overcome their problems. It also represents citizens' voices through policy advocacy, and by conducting numerous public campaigns.

⁴¹ UNCTAD, 2018, "Voluntary Peer Review of Consumer Protection Law and Policy of Morocco." Retrieved from https://unctad.org/en/PublicationsLibrary/ditccplp2018d1_en.pdf

Development and international Grants

Consumer associations may also try to obtain other forms of grants offered by international or development organizations. For example, Australian Aid (AusAid) provides such grants to the ASEAN Committee on Consumer Protection. It does this through the ASEAN-Australia Development Cooperation Program (AADCP), and is operated under phases - currently at Phase II. This is a fairly long-term programme that began in 2008 after having been kick-started by a financial injection of 57 million Euros. Its aim was to establish a solid ASEAN Economic Community by 2015; its current phase is now focusing on its post-2015 vision.⁴²

Table 3

Consumer Legal Action Fund of Hong Kong

The Hong Kong Consumer Council is the Trustee of the Consumer Legal Action Fund through a Declaration of Trust that was executed in November 1994. The Fund was established with a government grant of US\$ 10 million, then in May 2010 a further sum of US\$ 10 million was given. A key aim of the Fund is to offer easier access to legal remedies for consumers by providing financial support and legal assistance, particularly for those groups with similar grievances in cases that are of significant public interest and deemed to be unjust.

SOURCE: Report on Consumer Associations, UNCTAD, 2019.

Another important fund is the Anne Fransen Fund, whose purpose is to support an array of campaigns as well as to advance the position of consumers in developing economies through the building of consumer organizations. The fund itself is made up of contributions from individual members of the Dutch consumer body. Each year, grants of up to 10,000 Euros each are awarded to members of Consumers International, allowing them to carry out various projects. Each project must, however, be linked to one of the eight basic consumer rights.⁴³ Consumer associations who are members of Consumers International qualify to apply for the fund. Usually, smaller consumer associations are given preference.

⁴² ASEAN-Australia Development Cooperation Program Phase II (AADCP II), "About us." Retrieved from <http://aadcp2.org/about-us/>

⁴³ Ann Fransen Fund, Consumers Internacional. Retrieved from <https://www.consumersinternational.org/what-we-do/grants/anne-fransen-fund/>

For those larger and more established consumer associations, they are eligible to apply for grants directly from the European Union. These might come from, for example, the *Deutsche Gesellschaft für Internationale Zusammenarbeit* (GIZ), or the Swedish International Development Cooperation Agency (SIDA), provided that they meet the fairly strict organizational requirements. GIZ is a German-based provider of international cooperation services for sustainable development and educational outreach. GIZ liaises with businesses, civil society actors and research institutions - and all the while fostering successful interactions between developmental policies as well as other such areas engaged in common activities.

In Egypt, Lebanon and Jordan, numerous seminars and workshops were organized by UNCTAD with the support of the Swedish Government. The discussions were based on the best international practices of consumer protection, and all the while being directed principally at consumer associations themselves.⁴⁴

3.2 b) Testing and publications

The success of the consumer associations' funding model in the United States of America - based on providing useful information in exchange for a fee - quickly spread to Europe. The former's consumer testing associations, for example, provided the initial financial support for the Consumers Associations within the United Kingdom during the 1950s. Such support aided both product testing and the publication of a consumer magazine, titled *Which?* At its peak, *Which?* was circulated among one million subscribers. Similar successes were also witnessed in Belgium, Germany and Denmark. These operating models were managed according to commercial methods and standards, but not for profit. In countries like Austria, Norway, and Sweden, both the testing of products and the publication of magazines received some government subsidies.

Tunisia has a well-established national network, comprising 230 laboratories - of which 62 per cent are in the public sector and 74 per cent are accredited. In these, all the analysis and testing occurs, excluding health issues. Consumer associations access various infrastructures in order to conduct comparative testing on consumer products, providing that they have sufficient funding to pay for the tests and purchases of market samples. The consumer organization developed a partnership with the Ministry in charge of water and the water utility service provider. Under this alliance, a consumer educational programme was initiated. The overall purpose was to educate consumers on the crucial importance of water, its conservation and how best to avoid any wastage. It is to be borne in mind that Tunisia is a country with deserts and prolonged dry seasons.

3.2 c) Membership fees

Consumer associations also generate income from membership fees. Smaller consumer associations that are dispersed over large areas can converge and form coalitions, or federations. The smaller

⁴⁴ See <https://unctadmena.org/>

consumer associations usually pay membership fees to the federation and appoint council members who will represent their association's interests in the coalition, or federation. A coalition of consumer associations of this kind provides a stronger platform for consumers' voices to be heard at a national level. In turn, they have some political power, however limited, and are able, therefore, to vie for the attention of the relevant government agencies, or policymakers.

Collecting membership fees in developing countries is unreliable as often such fees are not the main sources of income for the consumer associations. This is because consumers have very little disposable income, meaning that they cannot contribute in any convincing way.

In most cases, members of consumers associations benefit from legal counseling, legal defense and a subscription to the association's magazine. The latter was important for the reasons outlined, such as the news features and results of product testing. Comparative testing, thus, became a useful aspect when used to promote membership. Today, for example, all the following consumer associations undertake campaigns to increase their memberships: United States of America - the Consumers Union; New Zealand - Consumer New Zealand; Peru - *Asociación Peruana de Consumidores y Usuarios* (ASPEC); and Spain - *Consumidores en Acción* (FACUA). Consequently, this increases their income and legitimacy *vis-à-vis* other stakeholders when defending consumers' interests.

4. Conclusion

Without doubt, consumer associations are playing an increasingly important role in the protection of consumers through the range of services they provide. They are engaging at ever deeper levels with other relevant stakeholders, such as government consumer protection agencies and the business sector. They are regularly granted *locus standi* (legal standing) in the courts as well as being drawn in for consultation during the policymaking processes. Some consumer associations even participate in the enforcement of consumer protection laws. This is the case for the aforementioned German organization, *Verbraucherzentralen* as it operates in parallel with business associations. The "super-complaint" mechanism in place in Great Britain has been used by designated consumer associations to trigger official investigations and, it ought to be noted, to some considerable effect.

Consumer associations are also reaching out to the private sector in moves to advance their goals. It was shown how the formation of alliances with other consumer protection businesses has led to the association known as Consumers International, whose reach is now considerably multiplied by the effects of their group actions.

As a consequence of UNCTAD's first meeting, involving an intergovernmental group of experts on consumer protection law and policy in 2016, the need to "engage stakeholders in the implementation of the 2030 Agenda for Sustainable Development, in particular with regard to inclusive consumer protection policies" was emphasized.⁴⁵ The representatives of the various consumer protection government agencies who attended also welcomed the "participation of

⁴⁵ General Assembly Resolution 70/1, "Transforming Our World: The 2030 Agenda for Sustainable Development," 25 September 2015.

consumer associations, civil society, business representatives and academia.”⁴⁶ The trend for the longer-term is for wider consensus to evolve in line with greater input by consumer associations as well as multi-stakeholder cooperation.

⁴⁶ Agreed conclusions of the "First Session of the Intergovernmental Group of Experts on Consumer Protection Law and Policy," (TD/B/C.I/CPLP/4). Retrieved from https://unctad.org/meetings/en/SessionalDocuments/cicplpd4_en.pdf