



PROFESSIONAL SERVICES

PowerPoint Slides Presentation Handout

Strengthening Technical Competency for
Consumer Protection in ASEAN





Professional Services

Session 1 – Introduction



Session topics / Outline

- Context for strengthening technical competency for professional services
- Conclusions of country reports on road mapping capacity-building needs
- Roadmap issues with respect to professional services

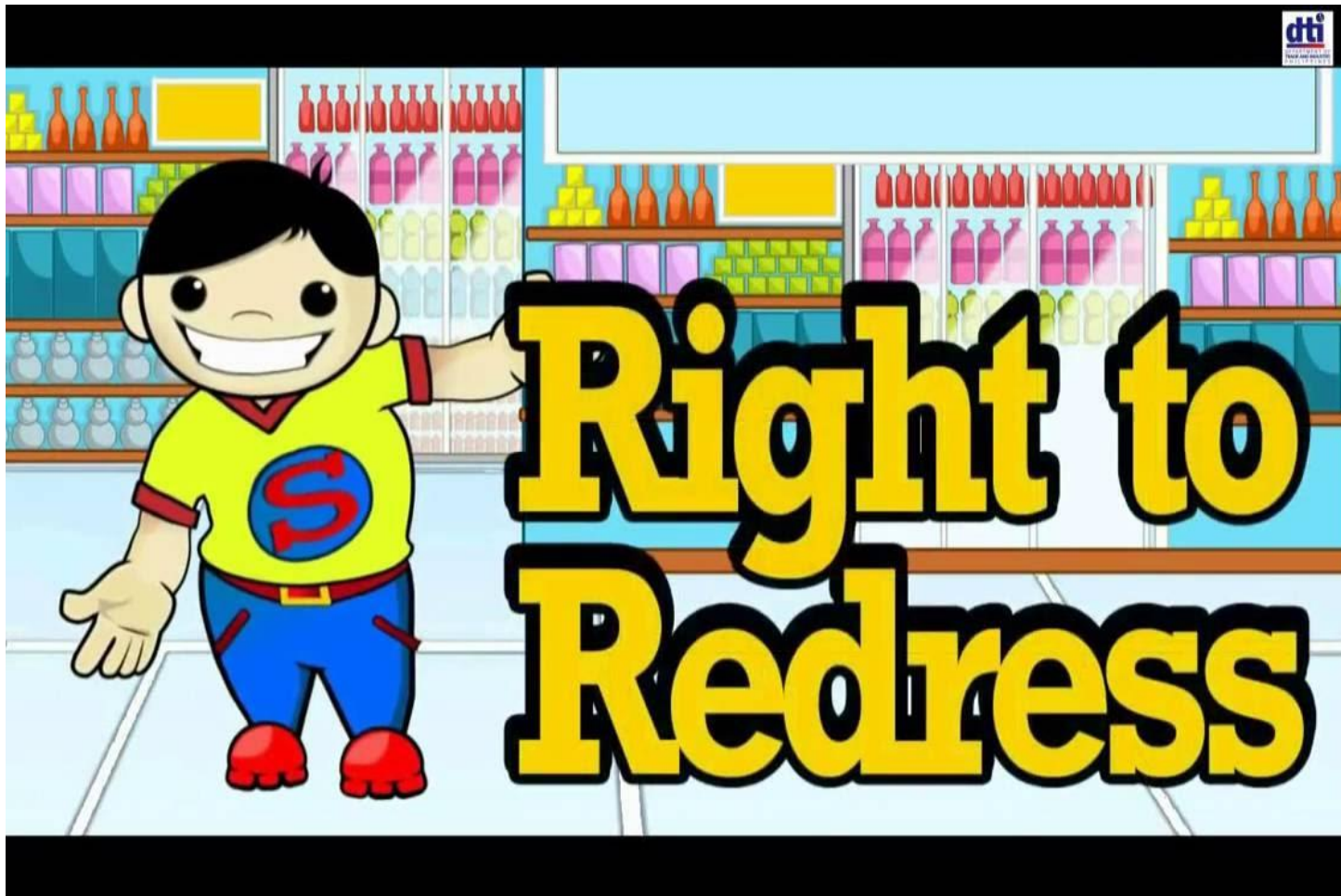
Context for strengthening technical competency for professional services



Government should:

- Establish legal administrative procedures to protect consumers.
- Encourage enterprises to resolve consumer disputes in fair, expeditious, and informal manner.

Context for strengthening technical competency for professional services



Government should:

- Encourage enterprises to establish voluntary mechanisms.
- Provide information and assistance to consumers on existing redress mechanisms.

Conclusions of country reports on road mapping capacity-building needs



The AMS require consumer protection strategies in:

- Institutional structures
- Legislation
- Enforcement
- Human resource development
- Acquisition of expertise and skills
- Regional planning for harmonization in a single market

Conclusions of country reports on road mapping capacity-building needs



As economies of AMS grow, progress has been made in consumer protection in terms of:

- Governance
- Institutional development and programs

Conclusions of country reports on road mapping capacity-building needs



Training needs were identified in the following areas:

- Developing consumer policies, frameworks and laws, codes of conduct of professionals.
- Implementing existing consumer protection policies, frameworks and laws, and codes of conduct of professionals.

Conclusions of country reports on road mapping capacity-building needs



Training needs were identified in the following areas:

- Implementing existing consumer protection programs and mechanisms.
- Developing and implementing awareness and educational programs.
- Undertaking research and development.
- Implementing existing training programs.

Conclusions of country reports on road mapping capacity-building needs

Gaps in strengthening implementation mechanisms were identified in six core areas.



Product Safety & Labelling



Consumer Credit & Banking



Phones, Internet, & E-Commerce



Environment



Healthcare Services



Professional Services

Conclusions of country reports on road mapping capacity-building needs



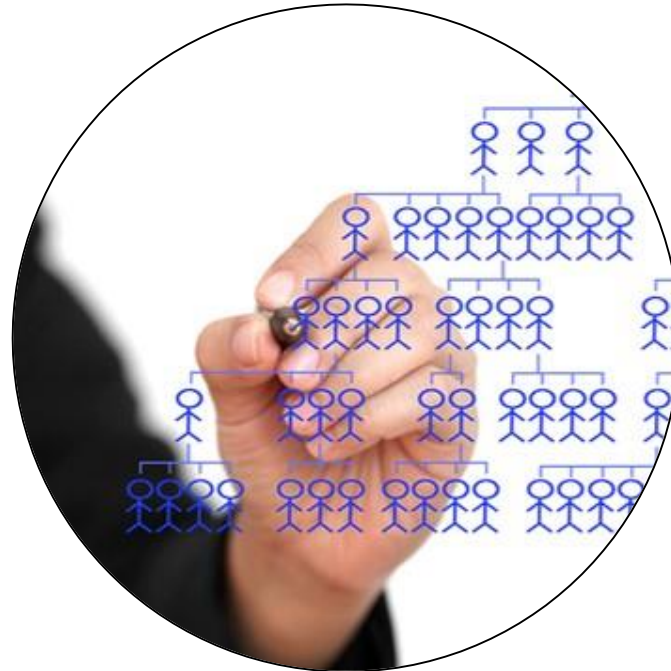
- Strategies and recommendations are formulated within the framework of UN Consumer Protection Guidelines.
- Professional services will be significantly liberalized.

Conclusions of country reports on road mapping capacity-building needs

Capacity building for consumer protection exists at three different levels:



- Systems



- Organizational



- Individual

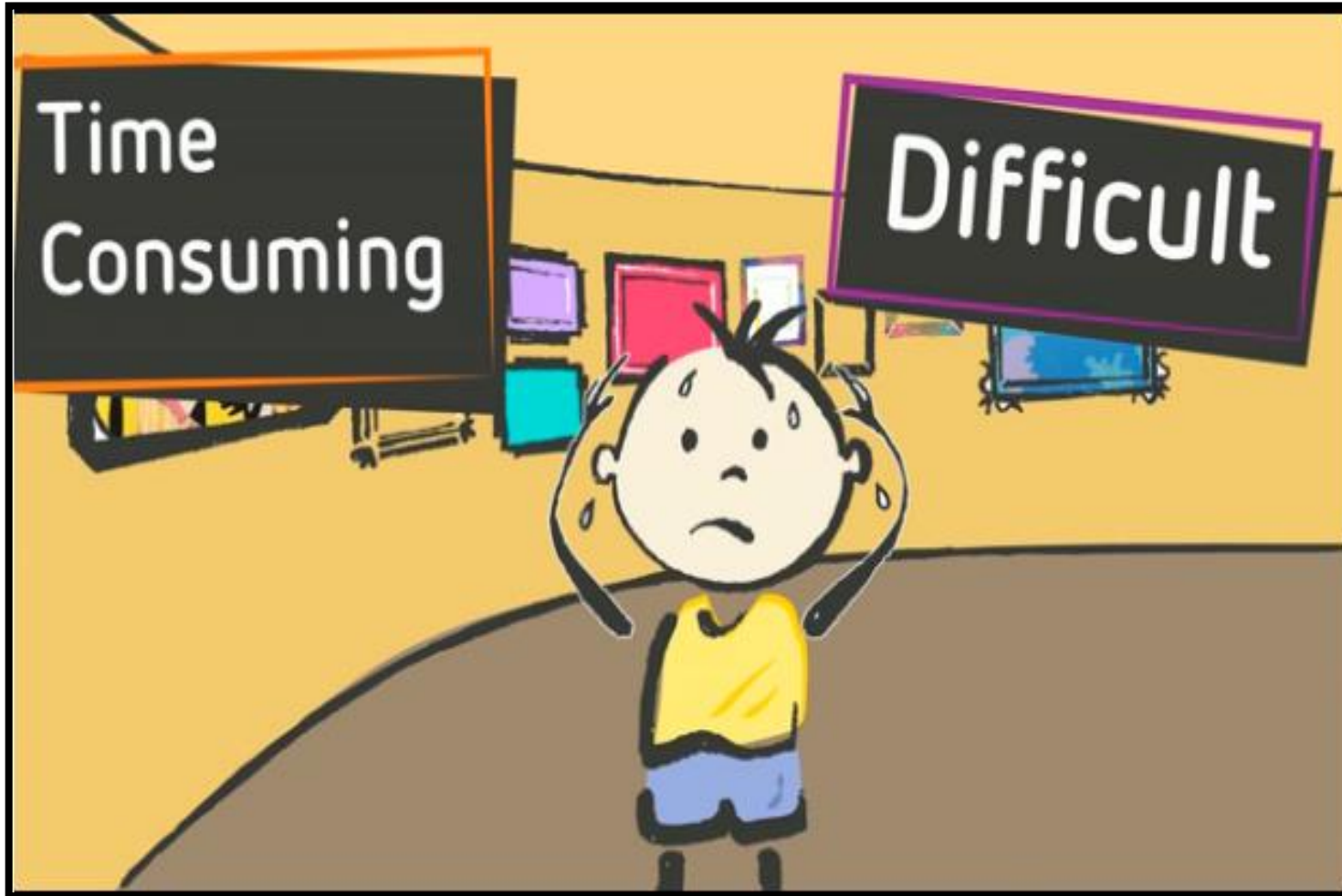
Roadmap issues with respect to professional services



Outstanding problems in professional services:

- Limited regulation, remedies, and access to medical and legal services.
- Existing redress mechanism do not address consumer claims.

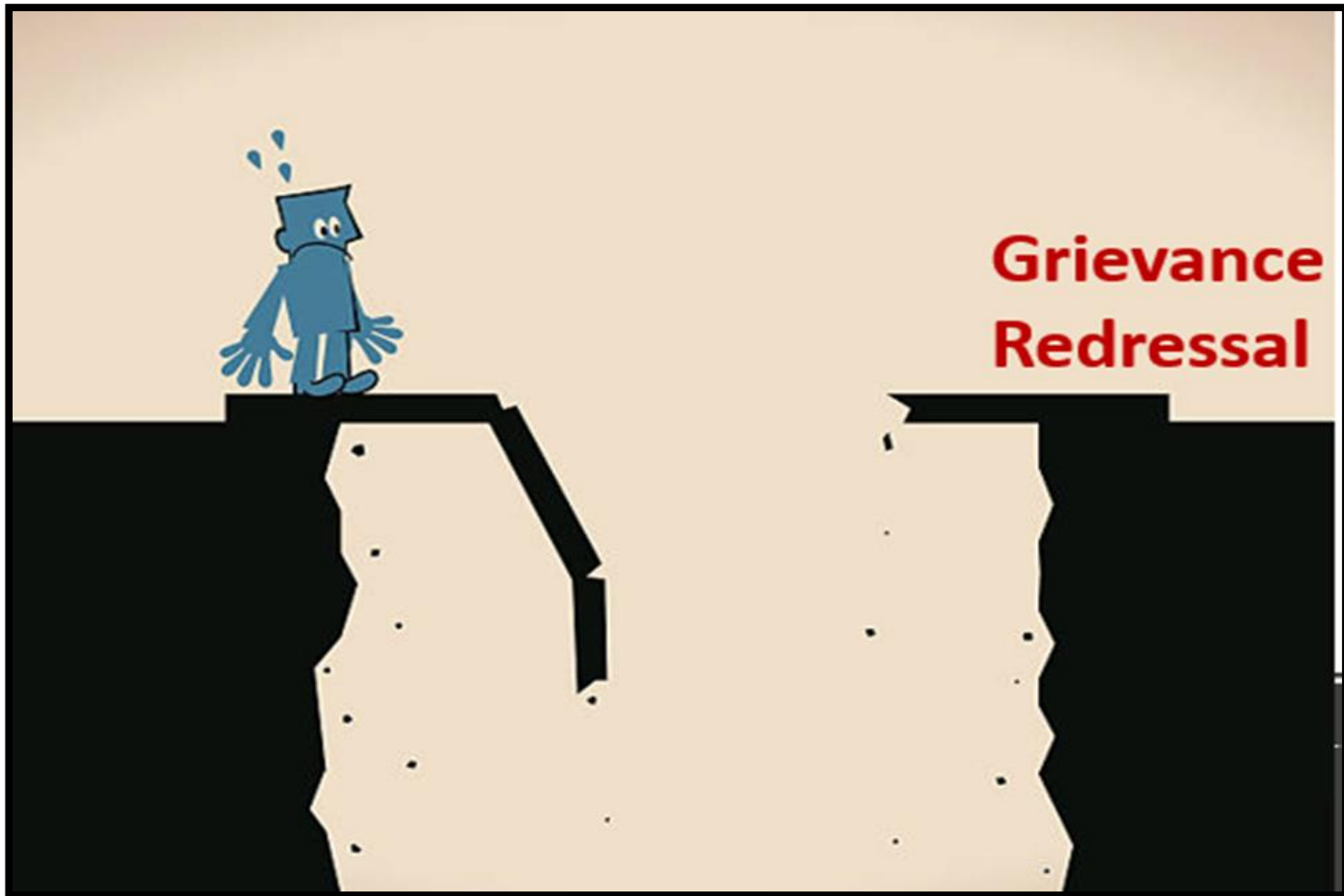
Roadmap issues with respect to professional services



Challenges in effective implementation of redress mechanisms:

- Lack of awareness among consumers.
- Difficulty to access avenues for redress.
- Filing complaints is technical and time consuming.

Roadmap issues with respect to professional services



Challenges in effective implementation of redress mechanisms:

- Difficult access to assistance from voluntary organizations.

Roadmap issues with respect to professional services



Common complaints in professional services:

- Non-itemized billing
- Fraud and dishonest practices
- Exorbitant charges
- Insufficient notification mechanisms

Roadmap issues with respect to professional services



Common complaints in professional services:

- Redress mechanisms are limited to courts
- Privacy, security, fraud, and abuse in relation to telemedicine

Conclusions of country reports on road mapping capacity-building needs



Recommendations in the road mapping report:

- Provide relevant national laws to protect consumers in medical and legal services.
- Establish an independent health complaint-handling authorities.
- Establish an efficient and effective redress mechanisms for consumers on medical or legal issues.

Conclusions of country reports on road mapping capacity-building needs



Recommendations in the road mapping report:

- Provide consumer representation in ethical committees and regulatory bodies.
- Review professional codes of conduct for the legal and medical professions to enhance consumer protection.
- Establish legal aid centers.

Conclusions of country reports on road mapping capacity-building needs



Recommendations in the road mapping report:

- Develop mechanisms for speedy redress of medical negligence.
- Establish task force to study inclusion of consumer protection measures and redress mechanisms for telemedicine.

Session Assessment



- What have you learned about the context of the project for strengthening technical competency for professional services that was discussed in this module?

Session Assessment



- What do you think are the main points of the report of the project on Road mapping Capacity-Building Needs of the AMS that are relevant to your work that are related to consumer protection?



Professional Services

Session 2 – Substantive

Consumer Protection Issues



Session topics / Outline

- ASEAN Economic Community blueprint for regional training
- Training opportunities and needs to ensure success and sustainability
- Generic issues and cross-cutting issues applicable to all AMS
- Generic Actions Required Applicable to all AMS

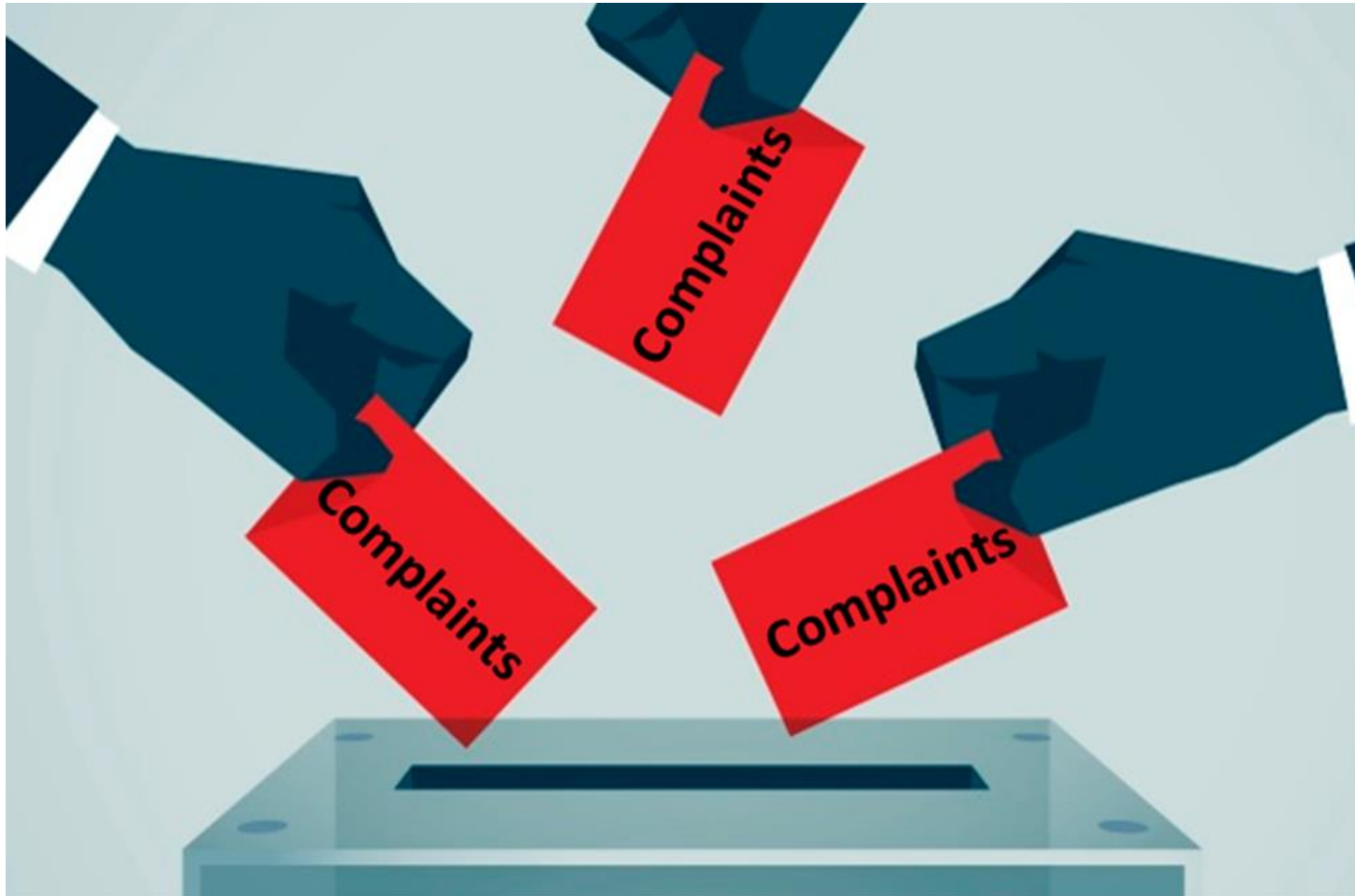
ASEAN Economic Community blueprint for regional training



Substantive consumer protection issues in professional services refer to:

- fraud and dishonest practices
- excessive charges
- non-itemized billing
- insufficient notifications on blacklisted or unlicensed practitioners

ASEAN Economic Community blueprint for regional training



Substantive consumer protection issues in professional services refer to:

- no redress mechanisms for legal misconduct and negligence except through the court systems

ASEAN Economic Community blueprint for regional training



Developing consumers' skills to improve understanding of goods and services:

- Contributes to increased confidence.
- Promotes healthy competition.

ASEAN Economic Community blueprint for regional training



Priority areas of action:

- Developing and implementing consumer policies, laws, and master plans.
- Monitoring and enforcing policies, laws, and codes of conduct.
- Developing effective redress mechanisms.

ASEAN Economic Community blueprint for regional training

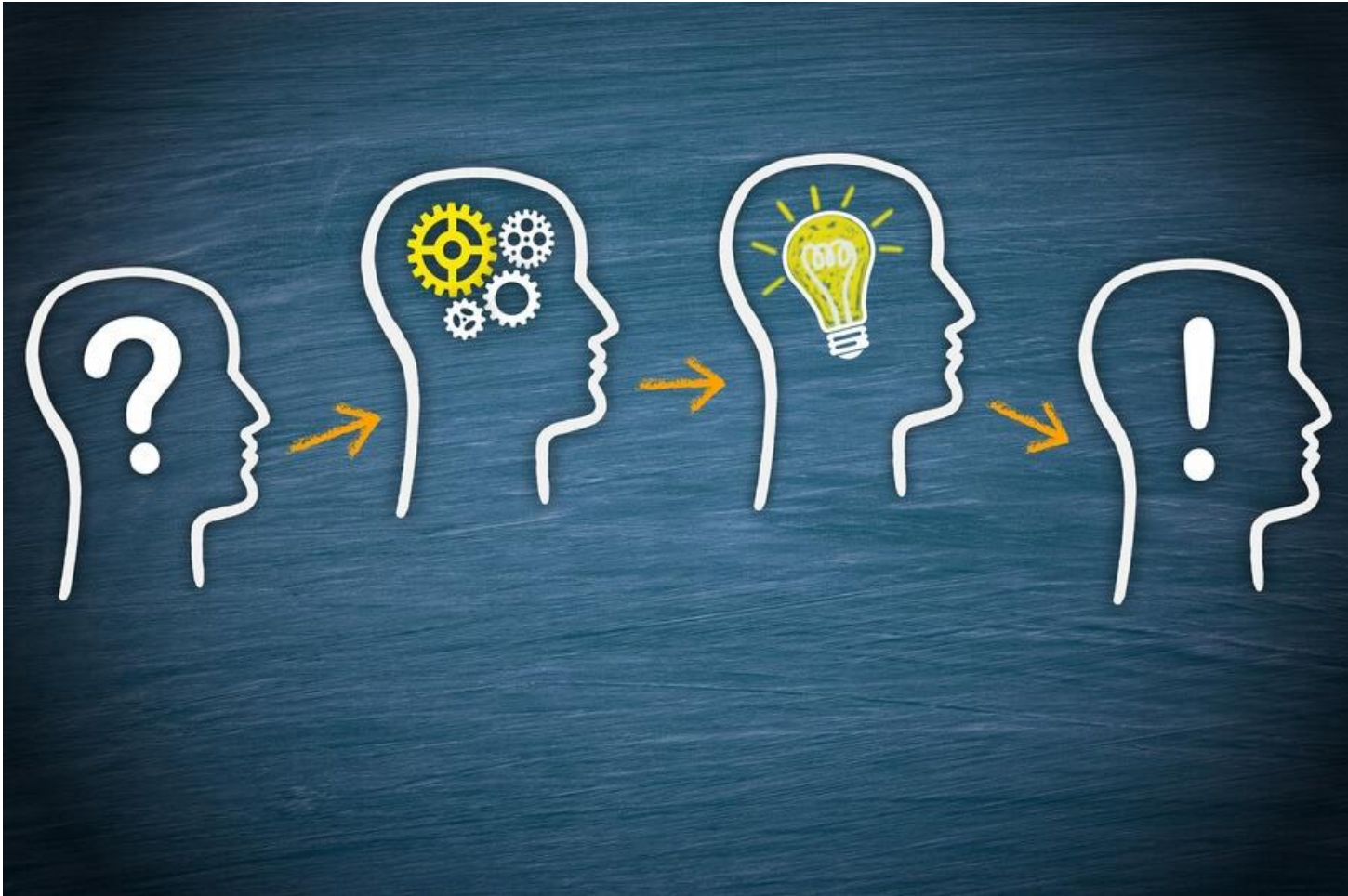
Research and Development



Priority areas of action:

- Developing and implementing awareness and educational programs.
- Research and development.

Training opportunities and needs to ensure success and sustainability



- To validate the core areas for training.
- To provide options for impactful training delivery.
- To test and evaluate training models.
- To create a powerful, accessible toolkit for future implementation.

Generic issues and cross-cutting issues applicable to all AMS



Generic areas of action:

- Access to professional services particularly for low-income, disabled, and rural consumers.
- Chargeable fees and accountability with regard to professions.
- Affordable and reliable services.

Generic issues and cross-cutting issues applicable to all AMS



Generic areas of action:

- Development and implementation of codes of conduct.
- Models for Internal complaint-handling systems.
- Models for External complaint-handling systems.
- Misleading or deceptive advertising or marketing.

Generic issues and cross-cutting issues applicable to all AMS



Generic areas of action:

- Unfair contract terms.
- Schemes for registration and regulation.
- Strategies for consumer information and empowerment.
- Poor communication with consumers.
- Consumer access to information and advice.

Generic issues and cross-cutting issues applicable to all AMS



Generic areas of action:

- Special needs of women as consumers.
- Dealing with hazards and emergencies.
- Compliance and enforcement.
- Consumers in remote locations and those with disabilities.

Generic actions required applicable to all AMS



Generic actions required:

- Developing, implementing, and evaluating consumer protection policies.
- Monitoring and enforcing laws and codes of conduct.
- Training in monitoring compliance with codes of conduct and ethical practices.

Generic actions required applicable to all AMS



Generic actions required:

- Training in best practices in redress mechanisms to handle cases.
- Creating awareness and education programs.
- Understanding principles for regulatory intervention.
- Selecting appropriate tools for consumer protection.

Generic actions required applicable to all AMS



Generic actions required:

- Applying general consumer policy tools.
- Developing skills in advocacy to encourage consumers to protect their interests.
- Engaging with civil society organizations to foster a culture of compliance.

Generic actions required applicable to all AMS



Generic actions required:

- Engaging with professional associations to ensure that rules protecting consumers are maintained.
- Encouraging cooperation between consumer policy and professional regulatory bodies throughout ASEAN to share best practices and assist less developed AMS.

Generic actions required applicable to all AMS



Generic actions required:

- Recognizing the need for training.
- Developing skills in conflict resolution and resilience.
- Establishing principles for complaint resolution.
- Training in cross-cultural and gender awareness.
- Understanding case management.

Generic actions required applicable to all AMS



Generic actions required:

- Developing call center techniques.
- Gaining familiarity with compliance and enforcement tools.
- Applying staff management and institution-building principles.
- Understanding how adults learn and how to facilitate learning.

Session Assessment



- From among the list of generic issues and generic actions needed for consumer protection cited during the session, which one or two are most challenging for you?

Session Assessment



- Of the different areas of the areas of concern for AMS professionals and areas for actions to be taken, which one is most pressing for you in your work that may be related to consumer protection?



Professional Services

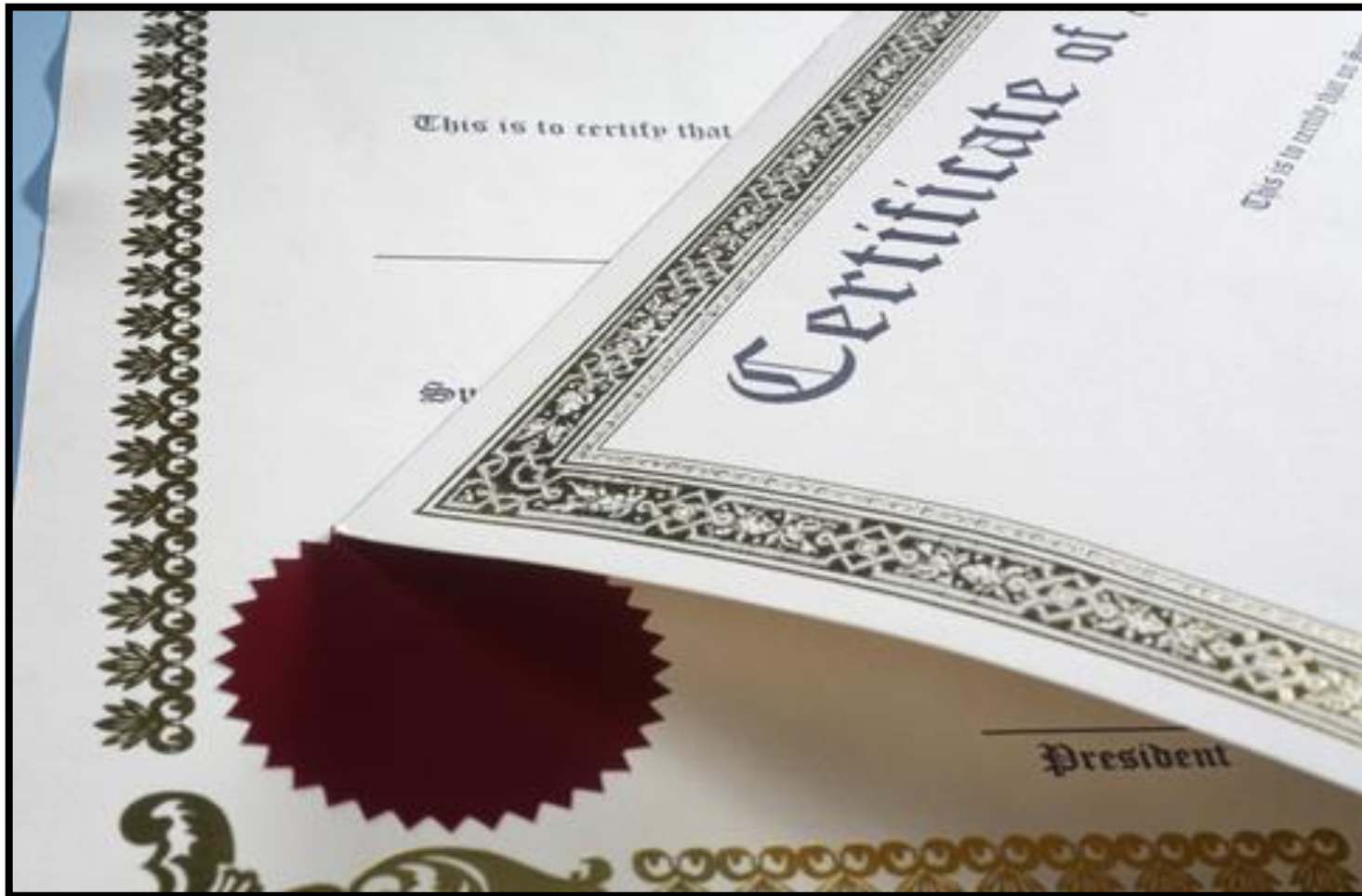
Session 3 – Pre-Market Interventions / Protection



Session topics / Outline

- Regulation and licensing of professions
- Market Surveillance
- Consumer Fraud and Deception

Regulation and licensing of professions



- The use of licensing and regulation to control the practice of law and medicine is extensive throughout ASEAN member states.

Regulation and licensing of professions



- **Professional licensing requires careful consideration since:**
 - It is important to assess whether government should intervene.
 - Regulatory intervention does not immediately follow the identification of information deficiency.

Regulation and licensing of professions



- **Professional licensing requires careful consideration since:**
 - Key determinants for professional regulation include the facts that:
 - Consumers lack information about a service.
 - Professional licensing schemes are means to deal with substantive consumer issues.

Market Surveillance

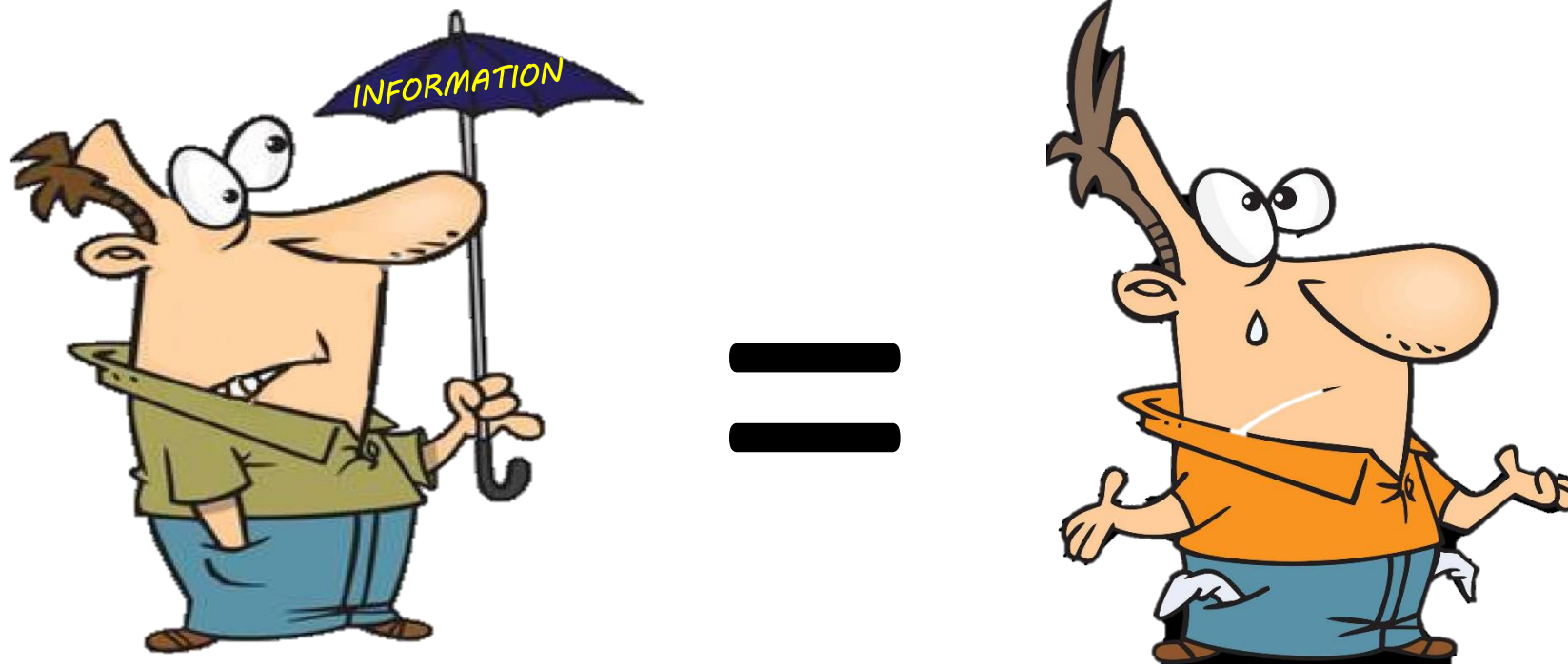
The practice of medical and legal practitioners needs to be constantly monitored since:



- Consumers will rarely have sufficient knowledge prior to choosing a particular doctor or lawyer.

Market Surveillance

The practice of medical and legal practitioners needs to be constantly monitored since:



- Inadequate information may lead consumers to make poor choices and suffer loss or damage.

Regulation and licensing of professions



- **Professional licensing requires careful consideration since:**
 - Consumers are obliged to take the quality of the service on trust.

Consumer fraud and deception



- Lack of knowledge or information about the intricacies of seeking professional services may result in consumers becoming victims of fraud and deception.

Consumer fraud and deception



- In many of the regional reports, there was:
 - Misleading and deceptive conduct by medical practitioners and lawyers.
 - Inadequate market surveillance or regulation by authorities of doctors and legal practitioners.

Consumer fraud and deception



- Effective markets and professional self-regulation depend on people operating in good faith.
- To prevent cases of fraud and deception among professionals, AMS should have criminal fraud statutes to help consumers.

Consumer fraud and deception



- In the case of medical practitioners, a misdiagnosis can cause an epidemic. To prevent this, everybody would prefer the regulation of medical professionals.

Session Assessment



- What have you learned about the provisions on licensing and regulations, market surveillance, and fraud and deception by professionals that authorities can establish for the welfare of consumers?



Professional Services

Session 4 – Post-Market Interventions / Protection



Session topics / Outline

- Investigation and enforcement of post market interventions and public warnings
- Efficiency and effectiveness of sanction as post-market interventions
- Jurisdiction and power of public authorities and regulatory bodies over individuals and companies to provide evidence and information
- Substantive Investigation

Investigation and enforcement of post-market interventions and public warnings



Post-market intervention for professional services refer to investigation and enforcement of the rules for admission to the profession and breaches of professional standards and code of conduct.

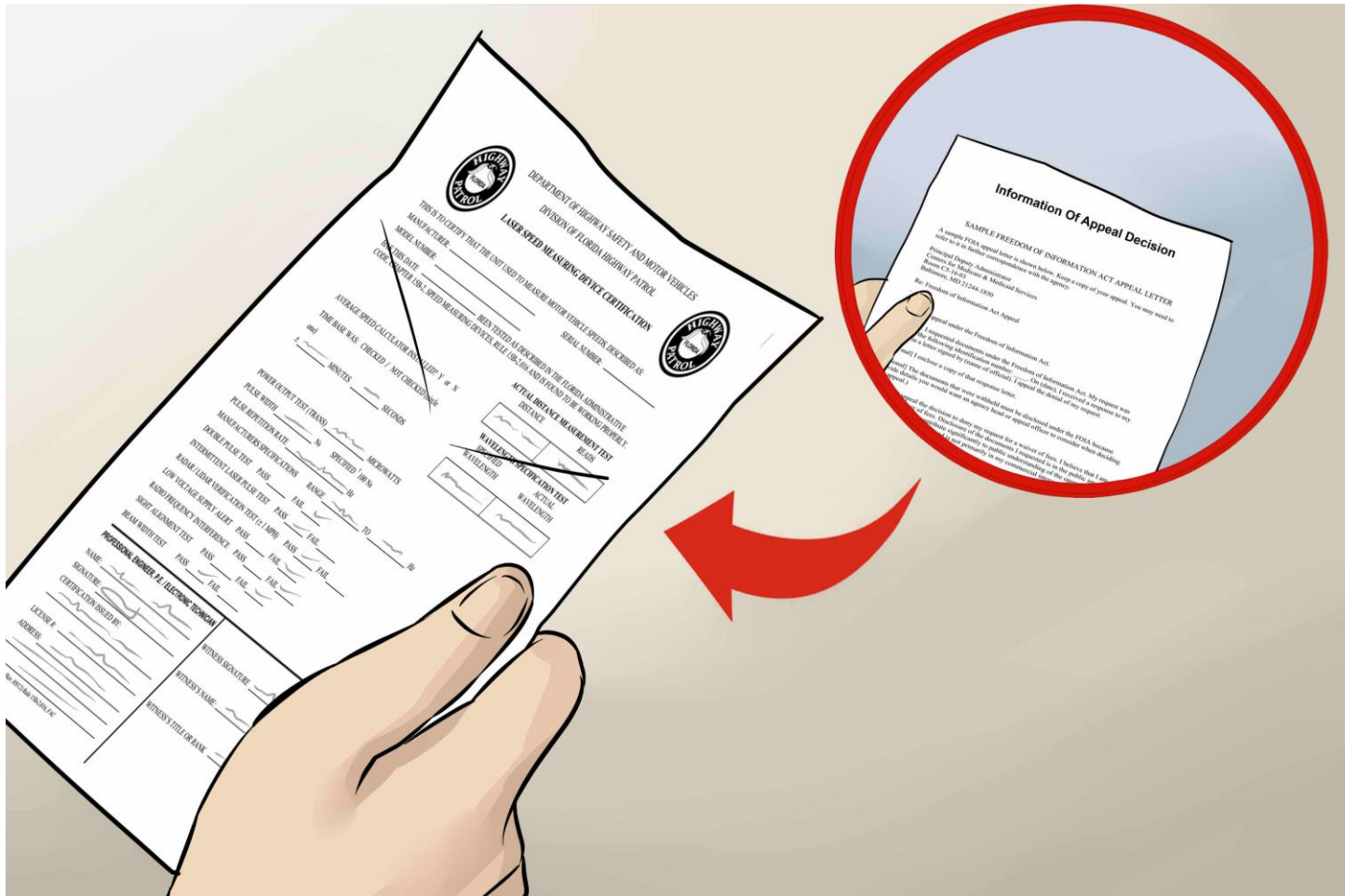
Investigation and enforcement of post-market interventions and public warnings



Sanctions for breaches, malpractices, and violations of professional service providers:

- Reprimands
- Compensation
- Mandatory retraining programs
- Disbarment (for lawyers)
- Cancellation of the right to practice (for doctors)

Investigation and enforcement of post-market interventions and public warnings



Public warnings

- In AMS where laws allow, group proceedings or class actions for compensation.
- Resource and personnel constraints contribute to insufficient enforcement of such measures.
- A further limitation is that throughout AMS, there is a cultural reluctance to complain.

Efficiency and effectiveness of sanctions



Identifying and sharing best practices is needed in the areas of:

- Integration of officials in the training and development programs of professional bodies.
- Incorporation of consumer protection in national development plans.

Efficiency and effectiveness of sanctions



Investigation by regulatory bodies:

- All member states have some registration and enforcement laws, but:
 - Not all have effective enforcement mechanisms.
 - It is highly desirable that officials are equipped with a framework and skills.

Efficiency and effectiveness of sanctions



- Investigation refers to a careful search or examination in order to discover facts.
- It aims to determine whether or not:
 - An offense has been committed.
 - The relevant CPA can obtain sufficient evidence to prove the offense.

Efficiency and effectiveness of sanctions



- An investigation aims to determine whether or not:
 - The relevant authority can achieve an effective outcome from its investigation.
 - The authority can pursue the investigation based on its enforcement priorities and available resources.

Efficiency and effectiveness of sanctions



Investigations undertaken by CPA should be based on appropriate authority and powers:

- The authority to investigate may be provided for in one or more locations within the enabling laws or regulations.
- Restrictive words may limit the agency's ability to investigate on its own initiative.

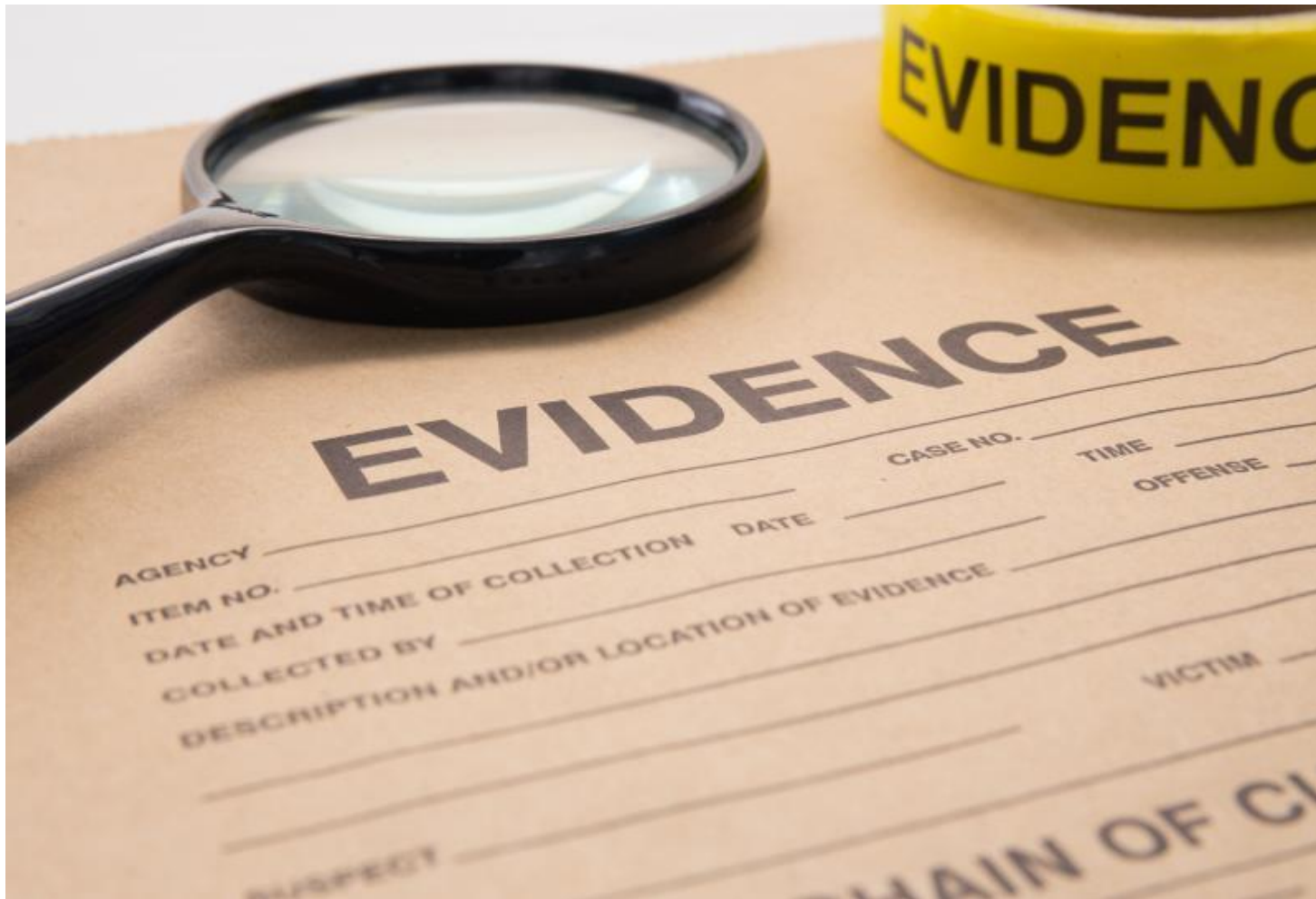
Efficiency and effectiveness of sanctions



Investigations undertaken by CPA should be based on appropriate authority and powers:

- The expected or assumed authority to investigate is absent or unclear.

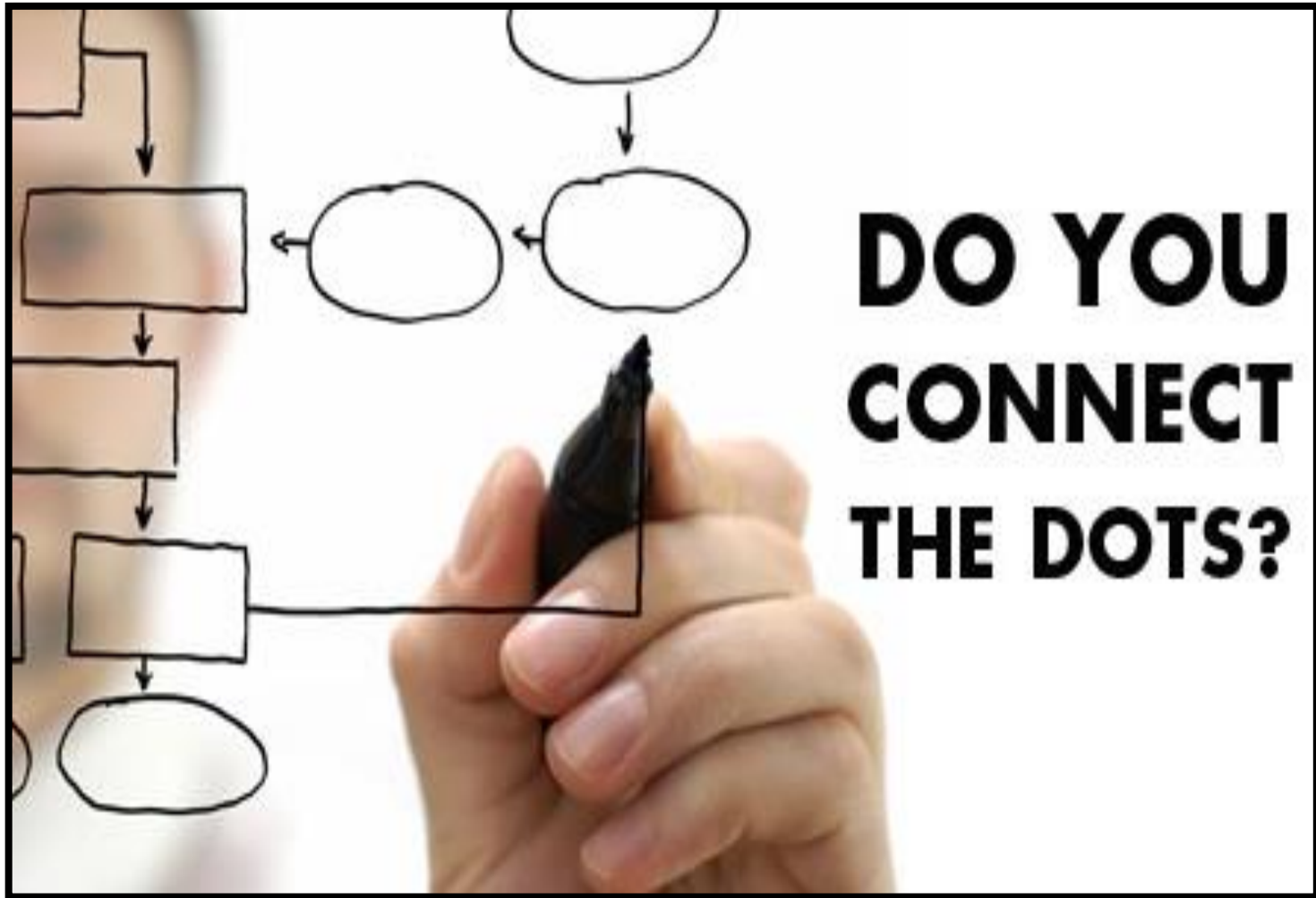
Efficiency and effectiveness of sanctions



Evidence most commonly relevant to consumer protection cases:

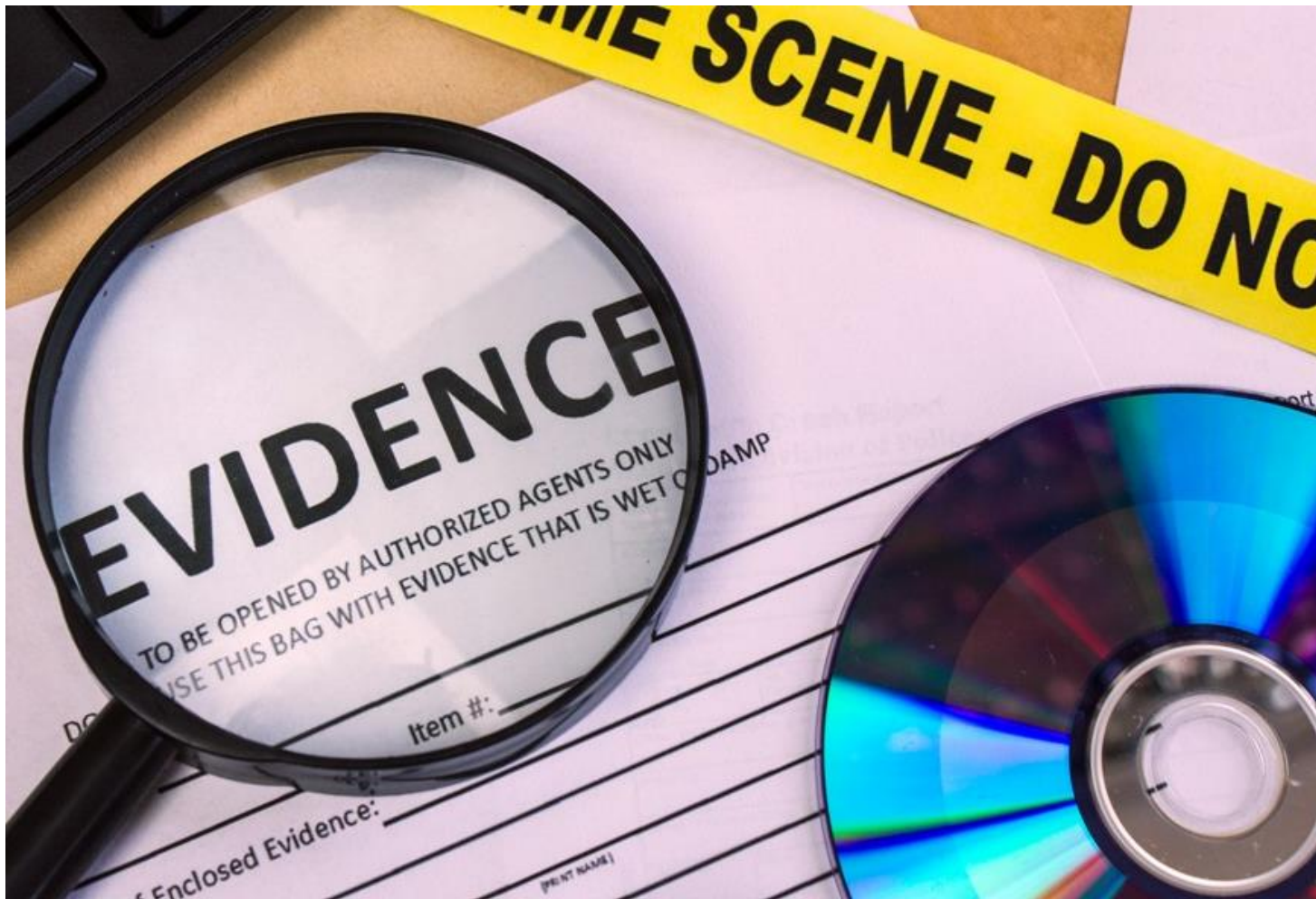
- Testimony
- Documents (e.g. reports, letters, invoices, receipts, etc.)
- Physical objects
- Expert evidence
- Opinions based on facts
- Circumstantial evidence

Efficiency and effectiveness of sanctions



Evidence Matrix is a practical technique for setting out the evidence required in a systematic way.

Efficiency and effectiveness of sanctions



Sources of evidence:

- Complainants
- Professionals complained about
- Individual consumers and consumer organizations
- Individual businesses
- Business associations
- Information providers
- Service facilitators

Efficiency and effectiveness of sanctions



Sources of evidence:

- Retailers and manufacturers
- Regulatory agencies
- Experts
- Investigators
- Foreign consumer protection authorities

Jurisdictions and power of public authorities and regulatory bodies



CPAs have powers to:

- Require nominated people to attend the relevant authority to answer question.
- Enter premises and seize evidence.

Jurisdictions and power of public authorities and regulatory bodies



Where these powers exist, there are also procedures that set out:

- Prohibitions on how the powers may be used.
- The trigger for the use of a power.
- The procedure for notifying the party.
- The penalties for non-compliance.

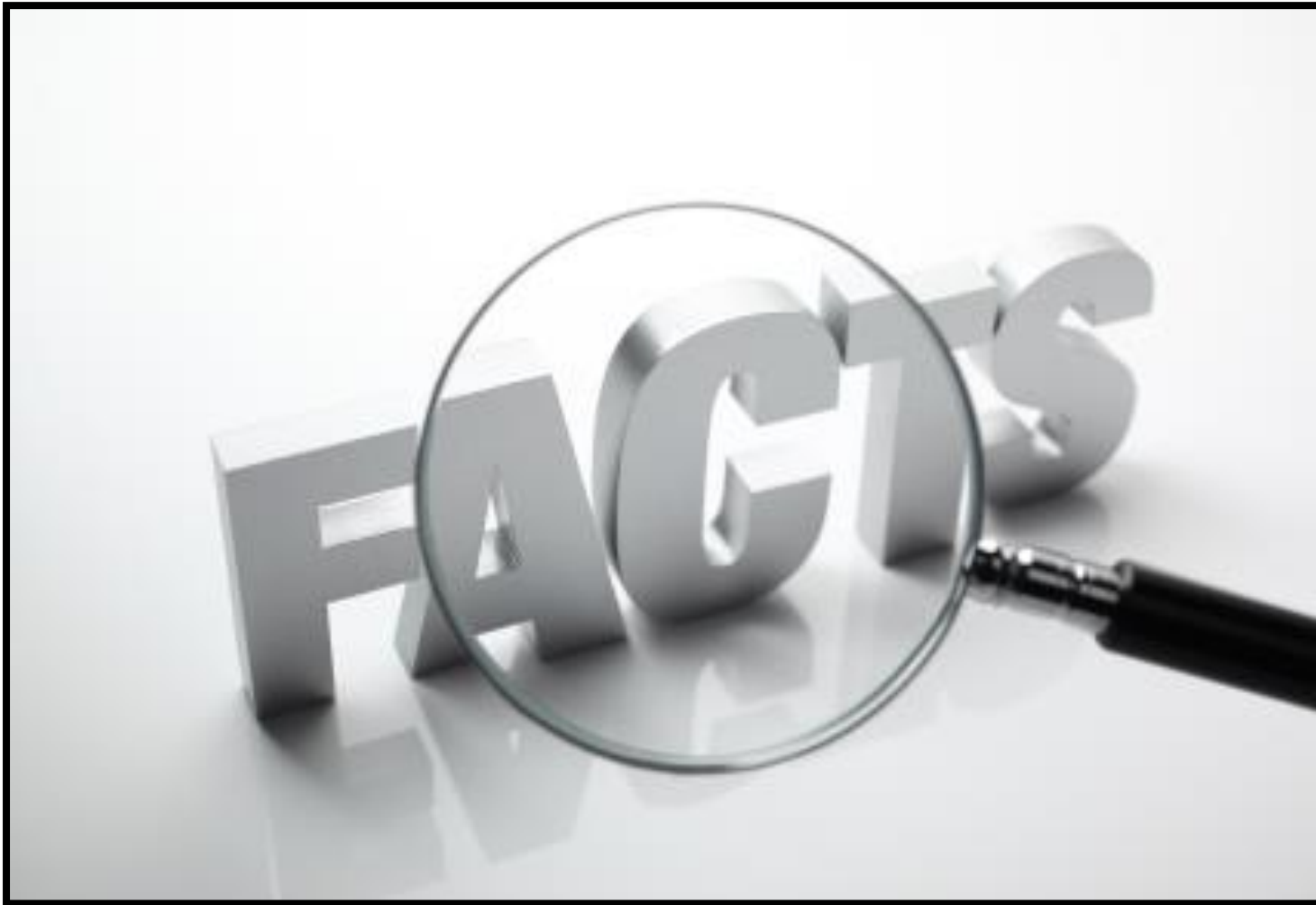
Substantive Investigations



Objectives of substantive investigations:

- Prove:
 - A violation
 - The incidence of the violation
 - The person harmed by the violation
 - Nature and level of harm suffered
 - The nature and quantity of ill-gotten gains

Substantive Investigations



Objectives of substantive investigations:

- Determine that:
 - No further investigation will obtain evidence sufficient to alter the conclusion.
 - The information and evidence obtained is consistent with a violation.

Substantive Investigations



Evidence-gathering techniques:

- Formal and informal interviews
- Surveillance, taking photographs, and recording
- Obtaining physical and documentary evidence
- Testing physical evidence by third parties
- Obtaining external legal advice

Session Assessment



- Of the post market post-market interventions for medical and legal practitioners discussed in this session, which one or two needs more intensive public information and education to empower consumers?

Session Assessment



- Why would post market interventions and implementation of regulatory provisions be difficult to enforce without prior consumer education and regulation about pre-market interventions?



Name of Sector

Session 5 –

Redress Mechanisms



Session topics / Outline

- Redress Models with their corresponding approaches / techniques
- Management and communication tools of the Consumer Protection Agency

Redress models and their corresponding approaches/techniques



Redress mechanisms are the different approaches to the citizens' rights to petition the government to address a particular grievance for services of professional that result in injury and loss.

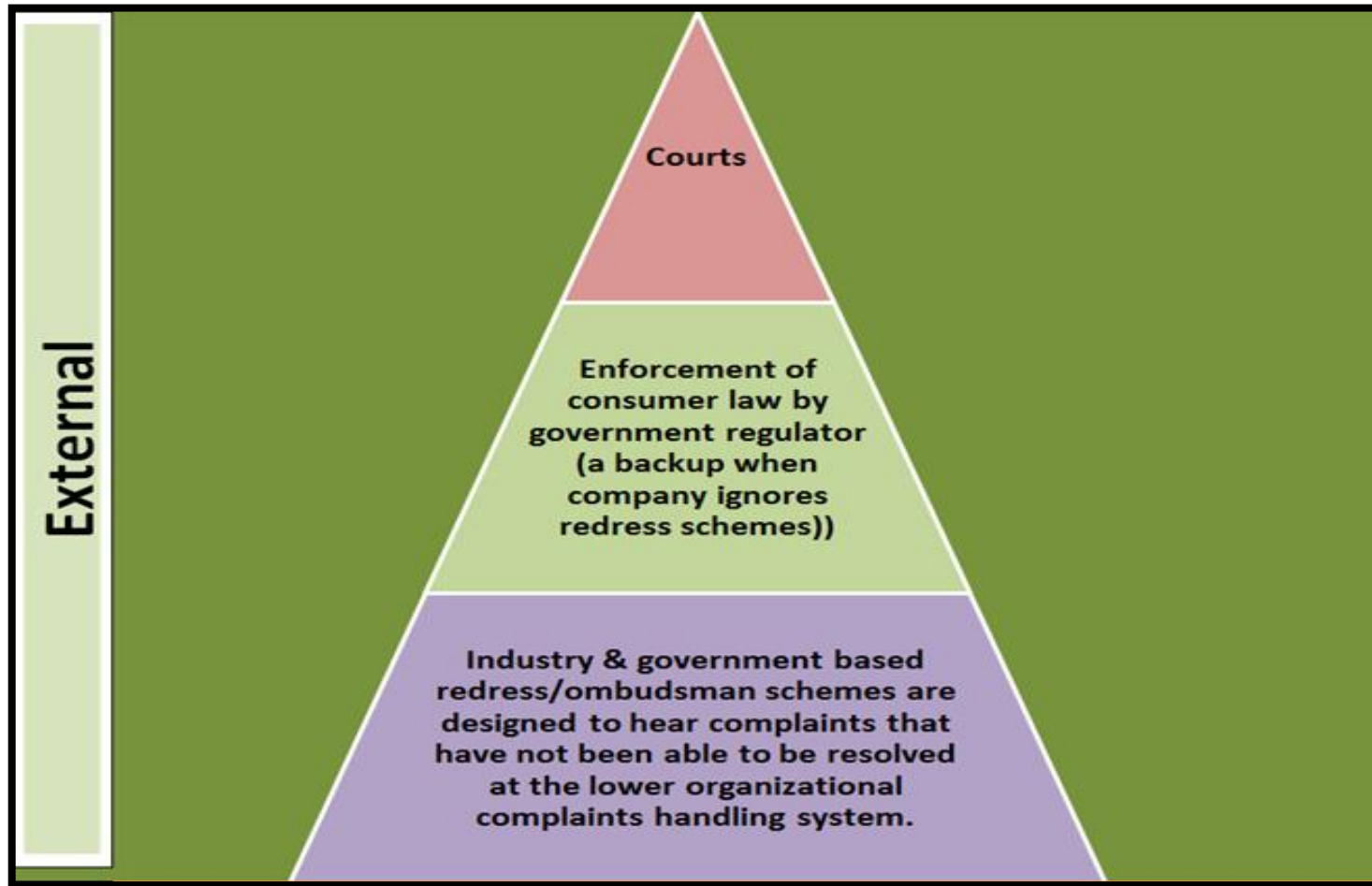
Redress models and their corresponding approaches/techniques



Model 1: Internal complaint-handling system

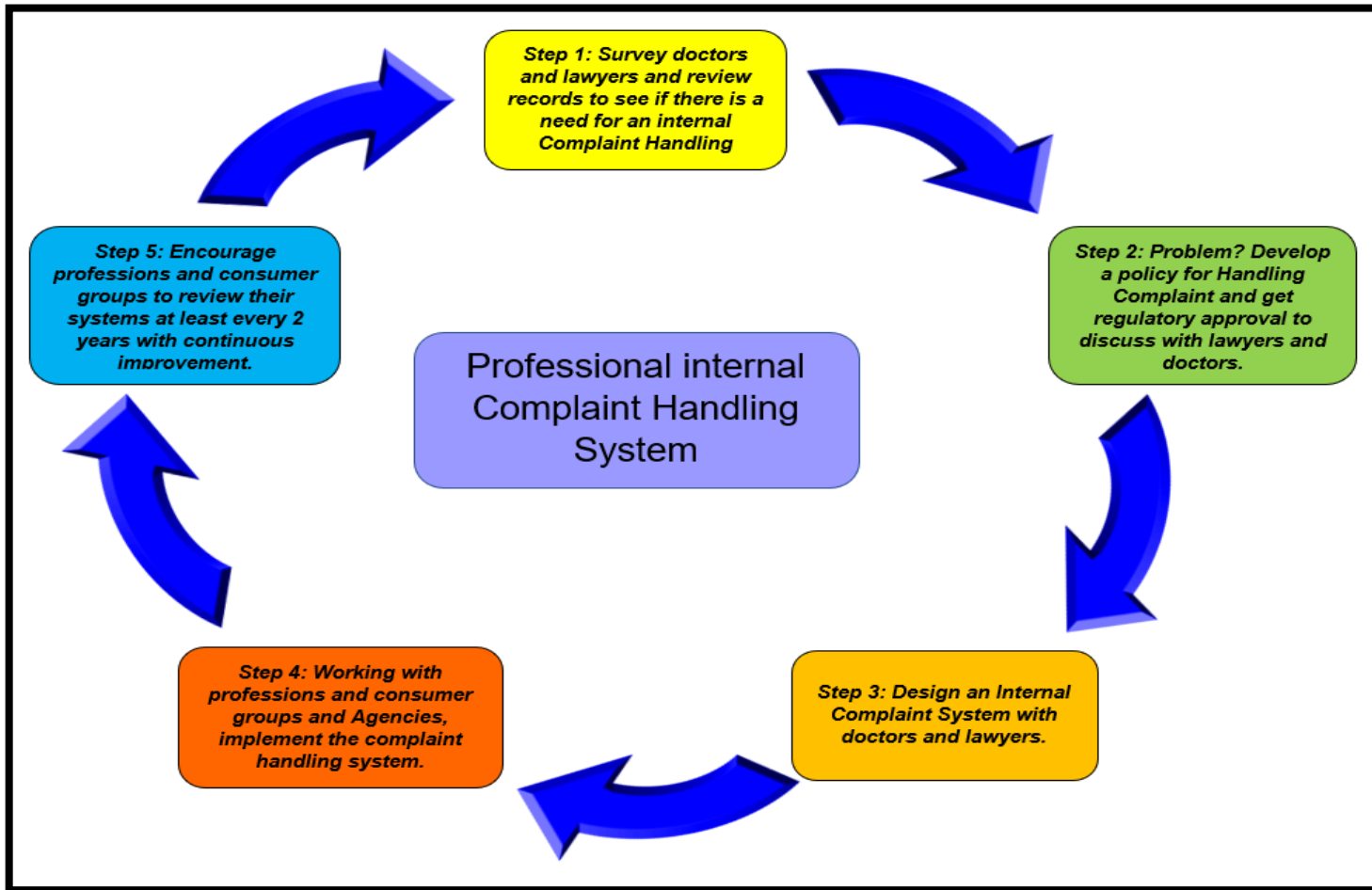
- Implemented by businesses and government agencies.
- Embodies the principles and features of complaint handling.
- Voluntary or required by law
- Appropriate for organizations of all sizes.
- Guidance in implementation can be found in international Standard ISO 10002.

Complaint and redress pyramid



Internal complaint handling systems and external consumer redress schemes

Redress models and their corresponding approaches/techniques



Model 1: Internal complaint-handling system

Step 1: Survey if system is needed

Step 2: Develop policy for discussion

Step 3: Design system

Step 4: Implement system

Step 5: Review system every 2 years and improve continuously

Redress models and their corresponding approaches/techniques



Model 2: Self-regulatory external redress schemes

- Set up with little formality.
- Usually used in the early stages of consumer policy and law implementation.
- Tend to have relatively low standards of performance.
- Are usually not enforceable, unless with contract.

Redress models and their corresponding approaches/techniques



Model 2: Self-regulatory external redress schemes

- No stakeholder engagement particularly with consumers and governments.
- Generally held in low regard by consumers and some governments.
- Interim step in developing a consumer redress scheme.

Redress models and their corresponding approaches/techniques



Model 3: Statutory complaint bodies

- Broad jurisdiction, usually cover most economic activities.
- Some are established to deal with a specific industry or practice.

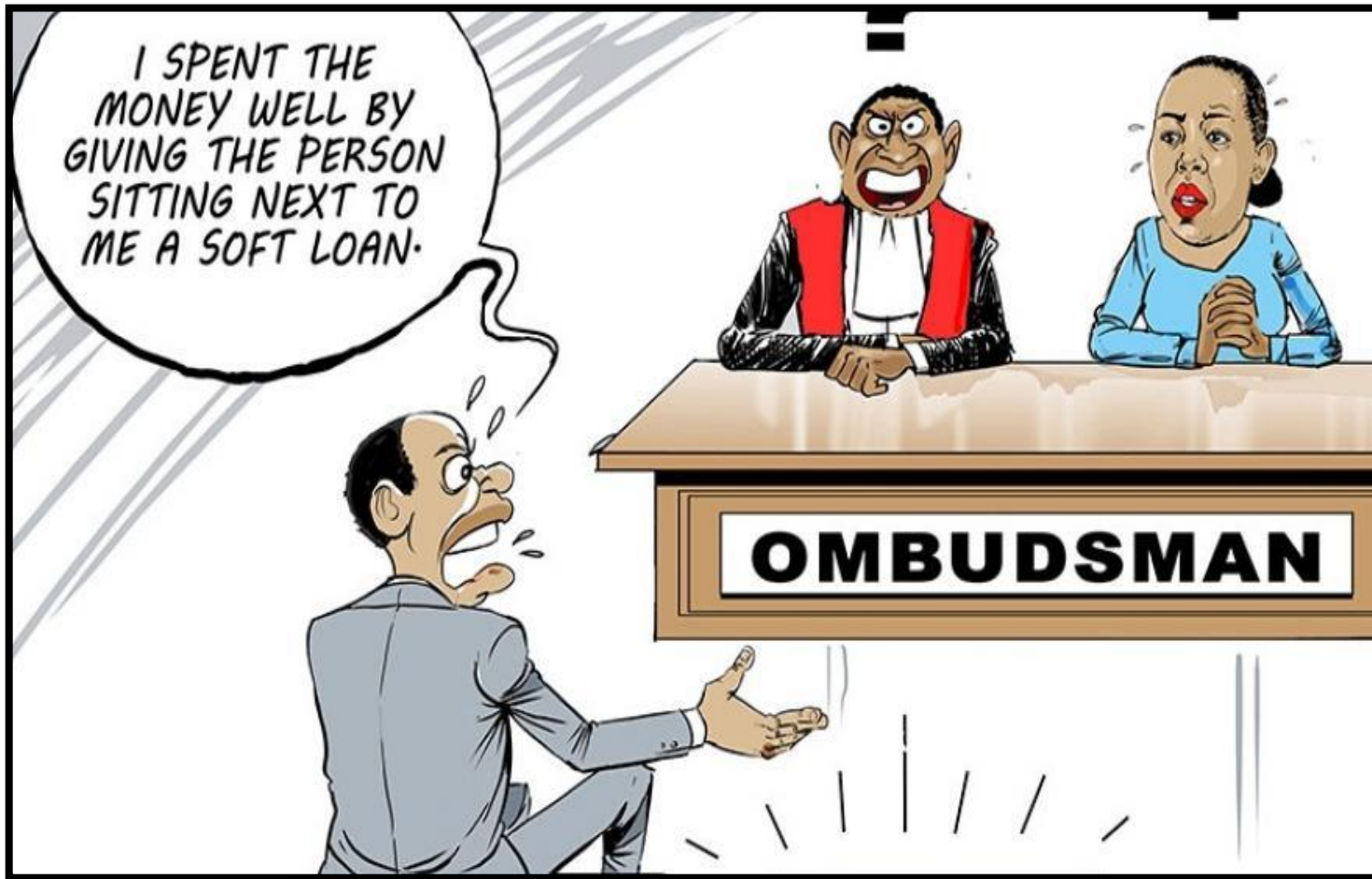
Redress models and their corresponding approaches/techniques



Model 3: Statutory complaint bodies

- Generally, part of a larger government agency responsible for policy and law enforcement.
- May be linked to industry regulators and small claims courts.

Redress models and their corresponding approaches/techniques



Model 4: Public-sector redress body (also known as Ombudsman)

- Involves contractors working in behalf of government but with no enforcement power.
- May include anti-corruption and human rights functions.
- Can deal with systemic issues of poor administration.

Redress models and their corresponding approaches/techniques



Model 5: Small claims courts or tribunals

- Designed for swift and inexpensive redress for consumers.
- Most do not permit legal representation.
- Require mediation prior to adjudication.

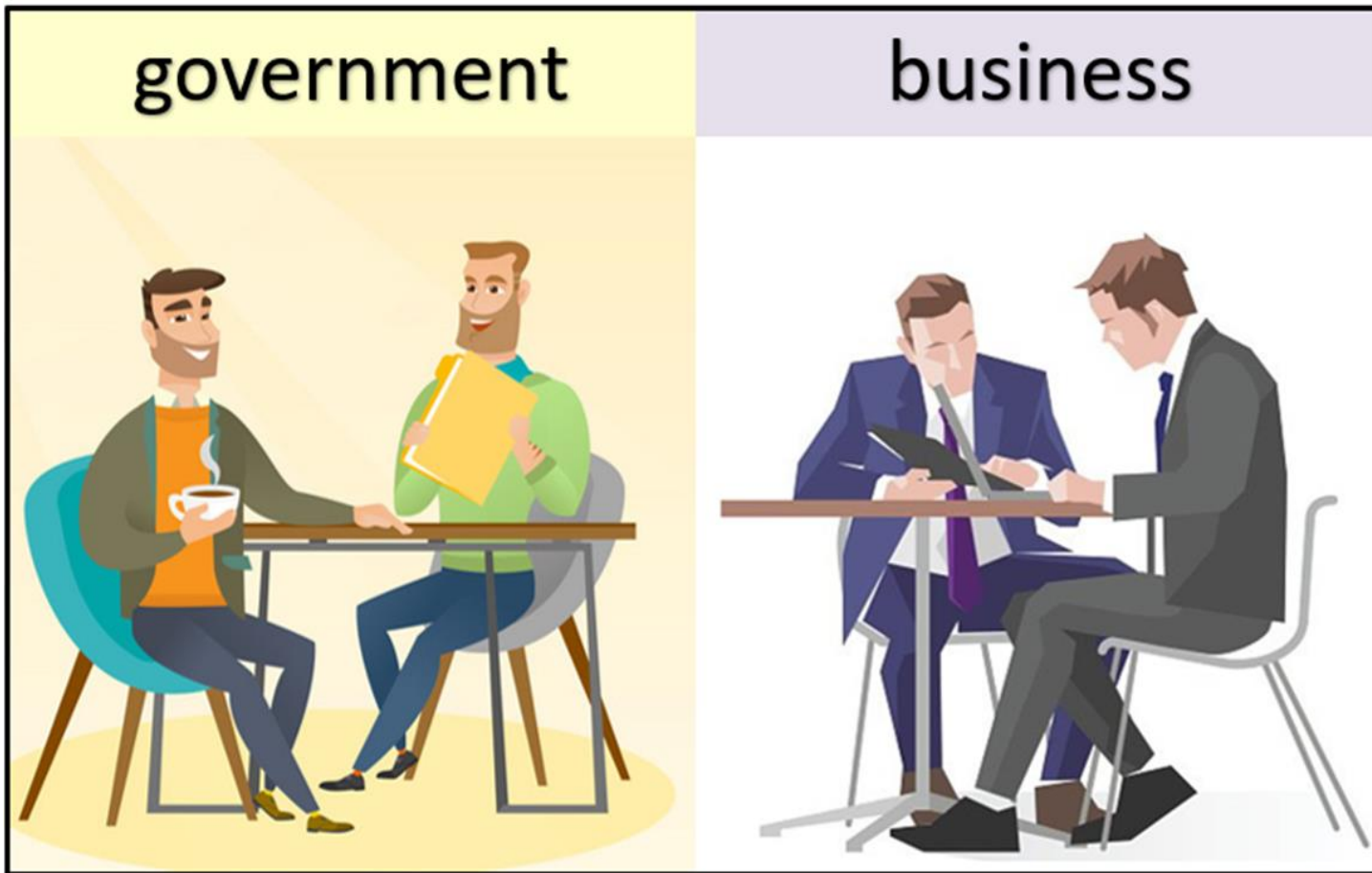
Redress models and their corresponding approaches/techniques



Model 5: Small claims courts or tribunals

- Employ Alternative Dispute Resolution (ADR) techniques.
- Judgments are enforceable in the courts.

Redress models and their corresponding approaches/techniques



Model 6: Private organization to improve consumer complaint system

- Made up of representatives from businesses and government agencies.

Redress models and their corresponding approaches/techniques

Model 6: Private organization to improve consumer complaint system



- Provides best practice training on consumer support functions (e.g. complaints handling).



- Requires senior management support.

Redress models and their corresponding approaches/techniques



Model 6: Private organization to improve consumer complaint system

- Highly effective in countries with strong domestic and international networks.
- Consistent with building a responsible and responsive business sector.

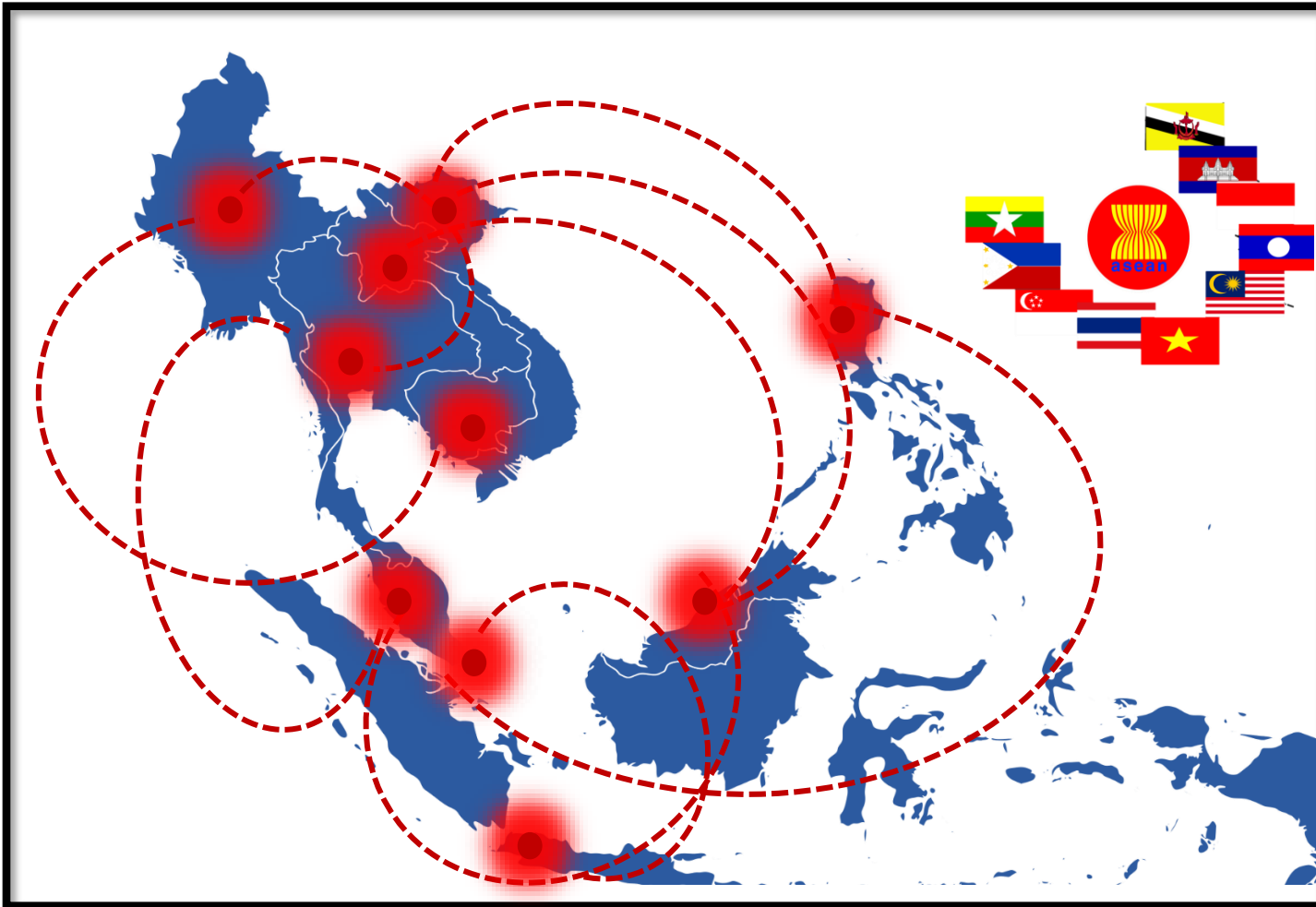
Redress models and their corresponding approaches/techniques



Model 7: Cross-border redress

- ASEAN regional facility for cross-border complaints.
- Employs strategic approach toward consumer protection.

Redress models and their corresponding approaches/techniques



Model 7: Cross-border Redress

- Contains policy measures and detailed priority actions, including development of:
 - Notification and information exchange mechanism by 2010

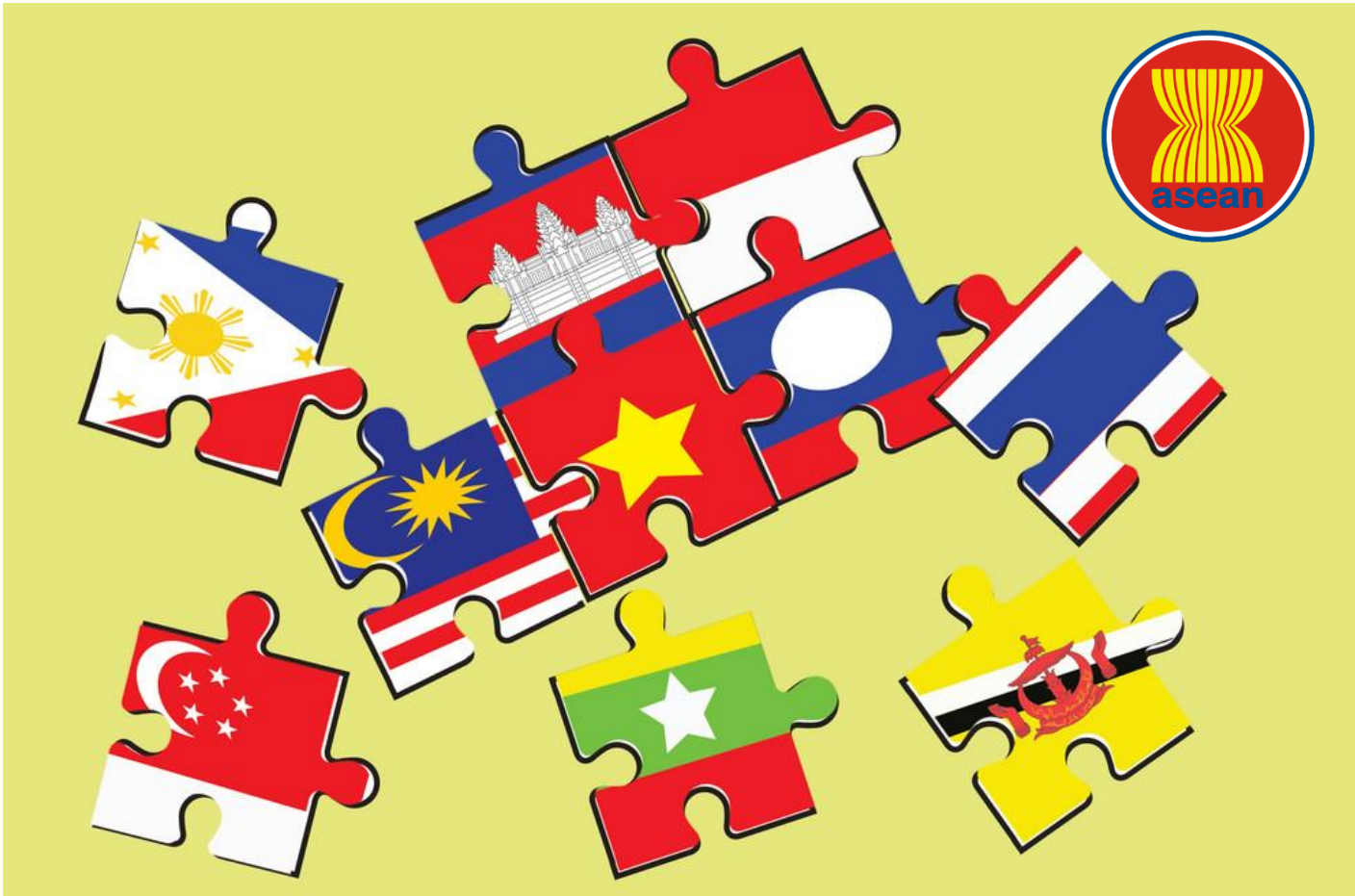
Redress models and their corresponding approaches/techniques



Model 7: Cross-border Redress

- Contains policy measures and detailed priority actions, including development of:
 - Cross-border consumer redress mechanism by 2015
 - Strategic roadmap for capacity-building by 2010

Redress models and their corresponding approaches/techniques



Cross-border access to justice

To date, no single model suits all AMS. Guidelines therefore, should be taken to assess the current consumer protection framework of **each** ASEAN member state.

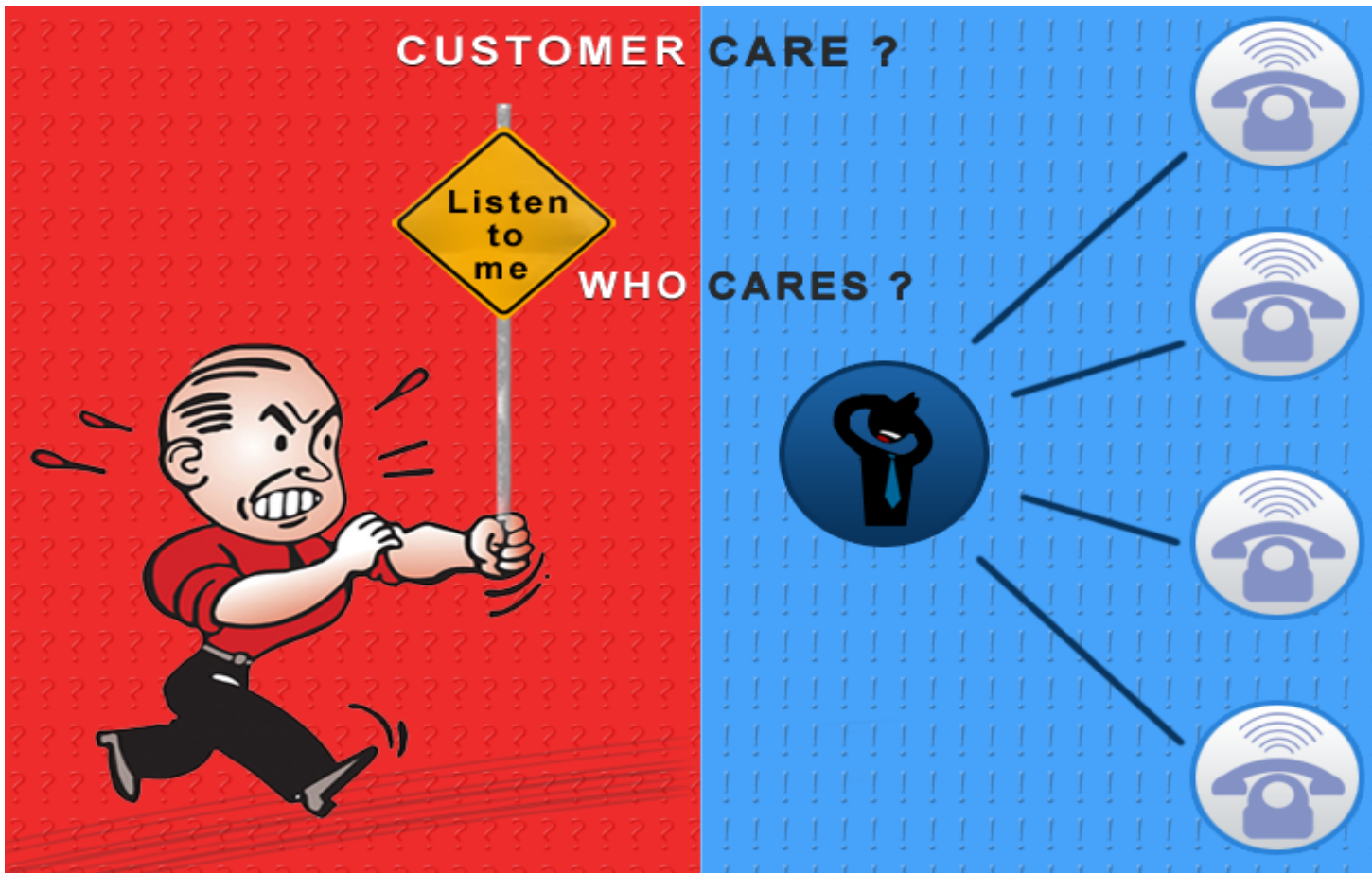
Redress models and their corresponding approaches/techniques



Considerations to determine the stage of development for implementation:

- Little or no measure for consumer redress.
- Basic professional admission/striking off provisions for gross negligence or dishonesty.

Redress models and their corresponding approaches/techniques



- Agreement within the jurisdiction on the need to respond to consumer complaints against health care providers.
- Growing consumer pressure with the establishment of complaint and redress schemes.
- Professional associations' involvement in complaint and redress schemes.

Redress models and their corresponding approaches/techniques



- Government intervention or threats to establish consumer redress schemes.
- Creation of industry ombudsman or other industry-based schemes.
- Best-practice complaint systems and redress schemes.

Redress models and their corresponding approaches/techniques

ALTERNATIVE DISPUTE

- Resolution -



The seven models incorporate the approaches of:

- Alternative Dispute Resolution (ADR)
- **Ombudsman**
- Arbitration
- Mediation
- Group actions / Class suits
- Cross-border access to justice

Management and Communication Tools of CPA



Consumer Awareness and Education

Key role and responsibility of CPA and other sector regulators:

- Help consumer become aware of their rights, including with respect to product safety.

Management and Communication

Tools of CPA



Consumer Awareness and Education

- Consumers should be informed of:
 - Their rights to safety
 - Available remedies if they encounter unsafe products
 - How to access remedies
 - Where to go for further advice

Management and Communication Tools of CPA



Consumer Awareness and Education

- Information dissemination targeting specific groups:
 - The general public
 - Women and homemakers
 - Students
 - Rural communities

Management and Communication Tools of CPA



Tools for information dissemination:

- Website and social media
- Media campaigns and public events
- Printed leaflets/booklets, etc.
- Partnership programs with Civil Society Organizations
- Toll-free consumer hotline
- Annual reports

Management and Communication Tools of CPA



IT-Based Consumer Complaints Registration System

An efficient and effective means of complaint handling should at the very least have:

- Basic information on common consumer complaint areas

Management and Communication Tools of CPA



- Categorized consumer complaints according to areas with reference number
- Standard letters with blanks to fill in information for different types of complaints
- Inter-agency contact information to enable easy referral

Management and Communication

Tools of CPA



Inter-Agency Collaboration

- Coordination among central and local CPA authorities is a major challenge in countries with new consumer protection law regimes.

Management and Communication Tools of CPA

Inter-Agency Collaboration



- Major challenges exist in countries that have limited financial resources.



- Major challenges exist in countries with permitted high levels of decentralization.

Management and Communication Tools of CPA



Inter-Agency Collaboration

- Collaboration with related agencies, courts, and other concerned organizations.
- Collaboration with regional and international bodies.

Management and Communication Tools of CPA

Converting Consumer Complaints to Consumer Policy



Retrieve data from
registration system



Analyse data and
write report



Propose policy action
from data analysis

Session Assessment



- Share the three most important learnings you have gained as a result of this Session.
- How can you apply these learnings in your work related to consumer protection?