

THEMATIC TITLE	LEGAL PROBLEMS RELATED TO CONDITION AND EXERCISE DISCRETION BY THE CONSUMER PROTECTION BOARD UNDER THE CONSUMER PROTECTION LAW
KEYWORD	EXERCISE DISCRETION/THE CONSUMER PROTECTION LAW/CONSUMER/CONSUMER PROTECTION
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YEAR	2017

ABSTRACT

The objectives of thematic paper were to study and analyze the law enforcement and the legal problems related to condition and exercise discretion by the Consumer Protection Board under the Consumer Protection Act, B.E. 2522 (1979) under section 39, in case of the Board deemed to prosecute related to tort litigation of consumerism when receiving the request from the infringement of the consumer rights. The Board considered that the litigation would be benefit for the consumers in overall. The Board had authorized to appoint prosecutor with the approval from Attorney-General or Government Officer in the Office of the Consumer Protection Board which had qualification less than bachelor's degree in law, was consumer protection officers, and had the duty for litigation in civil and criminal cases to the infringement of the consumer rights. When the Board had already informed the Ministry of Justice and the Court, the consumer protection officers had authorized to prosecute according to the Boards assigning the litigation in the Court in order to the consumer protection officers authorizing to sue for property or damages to the consumers' request. And in this case, it was exempted from all costs.

From the study and analysis, it was found that in case of the law enforcement in the Consumer Protection Act, B.E. 2522 (1979), according to the law as setting out the rule and the authority for the government organization for problem solving of customers not receiving

unfairness from operator. However, it had affected to the customers who had not received the unfair treatment as well as requesting the fairness from the relevant government agencies; that was Office of the Consumer Protection Board. It had the procedure and took more time to investigate the litigation because the consideration process of the Consumer Protection Board would deem to prosecute. And this litigation must have benefit for the consumers in overall. In the procedure, it must consider in accordance with the conditions which were not legislative and obviously. In any considerations, they would be litigation for the customers' benefit in overall due to the use of exercise discretion not being obvious boundaries. It may be affected to Consumer Protection Board who had not received unfairness treatment from infringement of rights and caused to the delays for the consideration in any case of the conditions for Consumer Protection Board. Therefore, the conditions should be obvious for the litigation which would have benefit for consumer in overall. These conditions may have affected to the customers who were under such as the conditions and not receiving from consumer protection law. In this case, the Consumer Protection Board deemed to litigation for infringement of the consumer rights. Even those consumers would be damaged by the infringement of the consumer rights.

To be the guidelines for problem solving related to condition and exercise discretion by the Consumer Protection Board, it should be delegated appropriately and obviously in legislation and able to effectively justify the consumers in accordance with the intent of consumer protection law. The researcher had suggested the following analysis studies.

(1) It should be amended to the Act of Legislation Protects a Consumer B.E. 2522 (1979), setting out the guiding principles for the use of exercise discretion based on the principles of proportion consisting of the other conditions which the law had authorized to proceed. The Consumer Protection Board would deem to the legal procedure on consumer protection. If the use of exercise discretion for Consumer Protection Board had no boundaries or done things in their own way, it must affect to the rights and freedoms of people who were in the consumers.

(2) It should be amended to the Act of Legislation Protects a Consumer B.E. 2522 (1979), Section 39, providing the schedule considering the causes of the consumer protection in regard to the litigation. The amendment reason was to problem solving because the requirement was to the customers who had damaged should have remedy rapidly and reduce the loss of opportunity or loss of long-awaited waiting.

(3) It should be amended to the definition of the word of “Benefits to Consumers in Overall”, legislating more concrete in order to be set up the scope for the use of discretion to determine for the Consumer Protection Board to legislate in consumer protection.

All of the above suggestions, it would reduce the problems in terms of not determining the conditions, reducing the problem for the use of exercise discretion from the Consumer Protection Board without boundaries in order to be delegated appropriately and obviously in legislation and able to effectively justify the consumers in accordance with the intent of consumer protection law.