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Business Law Practitioners



VIETNAM

E-commerce Guide

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Introduction

The estimated revenue from e-commerce in Vietnam in 2023 is more than US\$20.5 billion, increasing by about US\$4 billion, equivalent to 25%, in comparison with 2022 and accounting for 7.8-8% of the country's total revenue from the retail and consumer service industries. Much of the e-commerce market in Vietnam is now dominated by foreign invested or cross-border companies. This is seen in the fact that most e-commerce trading floors in Vietnam (i.e. Shopee, Lazada, Tiki, TikTok Shop, etc.) are majority owned by foreign shareholders. In recent years, e-commerce activities on popular social networks such as Facebook or TikTok Shop, by permitting users to display commercial advertisements and to perform the purchase and sale of goods as well as providing services, have become strongly competitive with previous e-commerce platforms. E-commerce in Vietnam is predicted to increase to US\$57 billion by the year 2025. It is a vital aspect of the economy and will only continue to become one of the largest contributors to the country's GDP.

Despite the growing importance of e-commerce in Vietnam, and the current projects to implement legal reforms in the sector, much e-commerce activity is spread across different laws and decrees making it difficult to determine the specific requirements of the law. This legal guide will provide an overview of the existing e-commerce regulations.

E-commerce Activities

E-commerce activity is defined as the conducting, a part or all of the process, of commercial activities by electronic means connected to the Internet, mobile telecommunications network or other open networks.

The subjects responsible before the law in relation to e-commerce comprise the following:

- (i) Vietnamese traders, organizations and individuals (including the foreign invested enterprises (“**FIEs**”));
- (ii) Foreign individuals residing in Vietnam; and
- (iii) Foreign traders and organizations having e-commerce service provision websites in Vietnam, i.e., cross-border e-commerce service providers. E-commerce service provision websites in Vietnam are those that have the national domain name of Vietnam; use the Vietnamese language; or have more than 100,000 transactions from Vietnam in a given year.

E-commerce activities can be conducted via (a) sales e-commerce websites which serve the owners interests through commercial promotion, sales or service supply; or (b) e-commerce service provision websites which include trading floors, online auction websites, online promotion websites and other websites regulated by the Ministry of Industry and Trade (the “**MOIT**”).

The owners of apps installed on electronic devices which can connect to networks that allow users to access the databases of entities to, subject to the features of such apps, purchase or sell goods or services are treated as business entities conducting e-commerce activities, and therefore, are

required to comply with the regulations applicable to the sales e-commerce websites or e-commerce service provision websites.

Sales E-commerce Websites

Sales e-commerce website is e-commerce website that is established by traders, organizations or individuals to serve their own trade promotion activities, sale of goods or provision of services.

Traders, organizations and individuals who have obtained personal tax codes in Vietnam have the right to establish sales e-commerce websites. Sales e-commerce websites offering an online ordering function must notify the Vietnam E-commerce and Digital Economy Agency (the “iDEA”) attached to the MOIT before officially beginning operations. Notifications may be conducted online via an account registered at the Portal for Managing E-commerce Activities at <http://online.gov.vn/>. The time limit for the iDEA to examine a notification application dossier is three (3) working days, and for any successfully notified website, it will be attached the “notified” symbol provided by the iDEA, which is linked to the Portal for Managing E-commerce Activities of the MOIT. The time limit for remedying shortages, if any, of an improper application dossier is ten (10) working days as from the receiving date of the notification of such shortages by the applicant. An act of failing to do the prescribed notification of sales e-commerce websites may be subject to a fine of from VND10 million to VND20 million for individual infringer, or VND20 million to VND40 million for organization infringer.

Any change of disclosed information for a notified website or the termination of the same shall be notified to the iDEA within seven (7) working days of such change or termination, respectively. An act of failing to notify the iDEA of such change or termination may be subject to a fine of from VND1 million to VND5 million for individual infringer, which will be double for organization infringer. Furthermore, owner of a notified website is obliged to make annual update of the disclosed information. The MOIT may remind the update within ten (10) days as from the due date and the grace period for the update is fifteen (15) days as from the receiving date of the MOIT’s reminder. Failing to do the prescribed update will lead to the cancellation of the website notification.

The owner of a sales e-commerce website has the following responsibilities:

- (i) To provide customers with prescribed information, and to be responsible for the accuracy and completeness of such information, including information about the owner of the website; information about goods and services; prices of goods or services; general trading conditions, i.e., terms and conditions of use; information about the conditions for shipment & delivery; and payment methods. Such information must (i) be obvious, accurate, searchable and understandable; (ii) be arranged in the corresponding sections on the website and accessible online; (iii) be stored, printed or displayed afterward; (iv) be displayed clearly to the customers before their sending of proposals for conclusion of contracts; and (v) for sales websites with an online ordering function, includes in the homepages of such website, links to the terms and conditions, information about the conditions for shipment, and delivery and payment methods;
- (ii) To comply with regulations on personal information protection and related regulations;

- (iii) To provide information related to e-commerce activities at the request of the competent authorities for the purpose of statistics, inspection, examination and handling of violations in the e-commerce sector;
- (iv) To store information related to transactions carried out through the e-commerce website in accordance with the law on accounting and fulfill tax obligations as prescribed by law; and
- (v) To submit the annual report according to the template and notice of the iDEA on their registered account at <http://online.gov.vn/>.

Establishment and Operation of E-commerce Service Provision

Websites

E-commerce service provision website is an e-commerce website that is established by traders or organizations to provide an environment for other traders, organizations or individuals to conduct their commercial activities.

Vietnamese legally established enterprises are permitted to establish e-commerce service provision websites appropriate to their registered business lines. Meanwhile, cross-border e-commerce service providers which meet prescribed criteria are required to register their e-commerce activities and establish a representative office or appoint an authorized representative in Vietnam to fulfil their responsibilities and obligations during the course of provision of e-commerce services, including the registration of their websites with the iDEA. The application dossier for registration of e-commerce service provision website is made online by the owner of the website at <http://online.gov.vn/>. An online application dossier will be examined by the iDEA within seven (7) working days, and if it is examined properly, the applicant thereof will be requested to submit respective hard application dossier. If the hard and online application dossiers are consistent with each other, a digital badge will be sent to the applicant for displaying in the homepage of the e-commerce service provision websites, which is linked to the owners' registration information at the Portal for Managing E-commerce Activities. As regulated, the website owner who fails to register his / her e-commerce service provision websites may be imposed a fine ranging from VND20 million to VND30 million. In addition, an act of failing to notify change(s), if any, of disclosed information of a registered website within seven (7) working days thereof may be subject to a fine ranging of VND10 million and VND20 million. Please note that the afore-mentioned fines are for an individual infringer, and double fines will apply to organization infringer.

The registration of an e-commerce service provision website may be cancelled by the iDEA in the following cases:

- (i) The service provider conducts prohibited acts;
- (ii) The service provider fails to fulfil its reporting obligations;
- (iii) The service provider is suspended from e-commerce activities under the decision on handling of violations by the competent authority; and
- (iv) The service provider fails to comply with the prescribed responsibilities and recidivism after being warned.

The registration of the e-commerce service provision website may be terminated in the following cases:

- (i) The service provider submits the request for termination of registration;
- (ii) The service provider stops operating or transfers the e-commerce service website;
- (iii) The e-commerce service provision website fails to operate or fails to respond at the request of the iDEA or other competent authorities within 30 days;
- (iv) The service provider is subject to administrative penalties for violations in the sector of e-commerce and is subject to additional penalties of “cancellation of registration” or “suspension of e-commerce operation” by the competent authority; and
- (v) Other cases prescribed by the MOIT.

E-commerce Trading Floor

E-commerce trading floor is e-commerce website that allows entities other than the website owners to conduct a portion or all of the process of selling and purchasing goods and services on the same. E-commerce trading floor can operate in one of the following forms:

- (i) a website allows users to open booths for display and introduction of goods or services;
- (ii) a website allows users to open accounts for carrying out the process of contract conclusion with the users;
- (iii) a website has a sale and purchase section allowing users to post information on sale and purchase of goods and services; and
- (iv) a social network that has one of the forms of activities specified above and users directly or indirectly pay service fees for doing such activities.

In cases where e-commerce websites permit users to sell and purchase goods according to the method of goods exchange, the owners thereof must obtain licenses for establishment of goods exchanges and shall comply with prevailing laws and regulations.

Owners of e-commerce trading floors must register their service websites, and publish on such websites their identifying information, the standard terms and conditions in Vietnamese, including mechanism for resolving disputes between sellers and buyers. They must also monitor the website to ensure that users comply with such terms and conditions. Regarding e-commerce trading floors' users, the owners of the websites shall have the right to request such users to provide their identifying information with accuracy, sufficiency, and then-current update, wherein for the foreign sellers, their specific names shall be transcribed into Vietnamese or presented in Latin characters, at the time of users' account registration.

The owners of e-commerce trading floors are obligated to apply necessary measures to ensure the safety of information about the trade secrets of sellers and the personal data of users. In addition, they must take relevant actions for timely resolving legal violations in accordance with the legal laws and regulations and the website terms & conditions, including but not limited to, applying necessary

measurements for preventing and removing from the website information on goods / services included in the list of banned goods and services or the list of banned business lines as prescribed by law; removing information on goods / services in violation of laws within twenty four (24) hours from the receipt of the request from a competent authority; cooperating with intellectual property right (IPRs) holders to review, and removing IPRs infringing products according to procedures published in the website terms & conditions; warning or refusing to provide services to persons that violate the laws. They are also required to support the competent bodies during the handling of legal violations and dispute resolution, that happen on the e-commerce trading floors, i.e. providing information about entities committing such violations when detecting or receiving such information; regularly updating keywords as recommended by competent authorities and filtering information on goods / services using such keywords before publishing it on the website; and receiving and responding to complaints, feedbacks and disputes about the e-commerce trading floor on the Portal for Managing E-commerce Activities of the MOIT at <http://online.gov.vn/>.

For e-commerce trading floors with online ordering function, in addition to above-mentioned obligations, the owners thereof shall have the following obligations, establishing a mechanism to permit participants to perform the prescribed process of conclusion of contracts; appointing an authorized contact to work with competent authorities; representing for foreign sellers in resolving consumers' complaints and notifying foreign sellers' tax obligations in accordance with the tax law of Vietnam; involving the resolve of consumers' complaints in certain cases; and storing information about placed orders as required under accounting law and regulations; and jointly compensating damages caused by their failing to fulfill prescribed obligations.

Online Promotion Website

Online promotion website is e-commerce website set up by traders and organizations to perform the promotion of the goods and services of other traders, organizations or individuals. Online promotion services can be provided in one of the following forms:

- (i) sale of vouchers / coupons for the clients to buy goods or use services of the partners at preferential prices or other benefits;
- (ii) sale of the loyalty card for the clients to use goods or services from a network of partners at preferential prices or other benefits compared with those upon purchase of goods and services in each individual partner; and
- (iii) other forms of online promotion services regulated by the MOIT.

The owner of an online promotion website must comply with regulations of the commercial law and other relevant laws. They must publish the terms and conditions, monitor and ensure the implementation of the same. They must establish methods to connect users to the promoted goods or services and allow for a contract to be entered into by those parties. They must publish information of each sponsor through their website. They must provide a mechanism to receive and settle complaints. They must take responsibility to third parties in providing information about goods and services to the clients. They must compensate users if issued vouchers / coupons service vouchers / royalty cards

are denied by the promoted partners contrary to the conditions publicized on the online promotion website.

Online Auction Website

Online auction website is e-commerce websites that provides solutions allowing traders, organizations and individuals that are not the online auction service providers to auction their goods on the same website.

Owners of online auction websites must first meet all the responsibilities of an e-commerce trading floor as discussed above. They must provide online auction methods and procedures. They must provide technical systems to serve the auction procedures and provide tools for sellers to publicize the relevant good or service that is being auctioned. They must provide sellers with progress updates on the respective auctions and provide auction results immediately after the end of an auction. Finally, they must assume responsibility in case of errors in the technical system they provided to users.

Protection of Personal Data in E-commerce Activities

In the course of conducting e-commerce business, if business entities have activities of processing personal data of consumers / users (the “**data subjects**”), they must comply with the regulations on the protection of personal information. In particular, they shall have the following responsibilities, inter alia:

- (i) To clearly display a privacy policy of which the contents before or at the time of information collection must comprise the purpose and scope of use of collected personal information; terms of information storage; persons who may have access to that information; information about the information collector and controller, including methods of contact; and the method and tool for data subjects to access and modify or correct their personal information;
- (ii) To obtain consent from the data subjects prior to the collection and use of their personal information, except for the case (a) the collection of personal information already published on e-commerce websites; (b) the collection of personal information in the process of entering into a contract for the sale and purchase of goods and services; and (c) the collection of personal information to calculate the price and charge of use of that information;
- (iii) To create specific mechanisms so that data subjects can select the option to permit or refuse the granting of consent for use of their personal information in the following cases: (a) sharing, disclosure and transfer of personal information to a third party; and (b) using personal information for sending the data subjects commercial advertisements;
- (iv) To use the collected information within the scope of the consent of the data subject, except for the cases (a) of having a private agreement with the data subject that is additional to the privacy policy published; (b) for providing services or products at the request of data subjects; and (c) for performing obligations as prescribed by law;
- (v) To ensure the safety and security of personal information collected and stored, and to prevent the acts of stealing or unauthorized access to the information, unauthorized use of

- information, and unauthorized change or damage of information;
- (vi) To have a mechanism to receive and settle the data subjects' complaints concerning the improper or unauthorized use of their personal information;
 - (vii) To notify the competent authorities within twenty four (24) hours after the detection of incident of any attack which may risk the loss of consumer's information;
 - (viii) To perform the checking, updating, modification or deletion of personal information at the data subject's request, or to provide the data subject with relevant tools for doing so; and
 - (ix) To prepare, submit, and maintain the prescribed dossier for personal data processing impact assessment (PDPIA) and/or the dossier for offshore personal data transfer impact assessment (OPDTIA), as case maybe, to the Department of Cybersecurity and High-tech Crime Prevention (A05) attached to the Ministry of Public Security (MPS).

For more details on the data privacy law in Vietnam, please see our [“Vietnam Data Protection Guide”](#).

Certain Issues Related to E-commerce Websites with Online Ordering Function

Contract Conclusion and Termination

If an e-commerce website has an online ordering function, then the introduction of information about goods and services in combination with the relevant terms and conditions shall be regarded as a notice to invite a proposal for conclusion of a contract with the seller. Subsequent e-documents created by customers and sent by using the online ordering function on the website shall be regarded as a proposal for conclusion of a contract for the goods or services associated with that online ordering function. The validity of a customer's proposal for conclusion of contract shall be deemed terminated if the customer does not receive a response to such proposal within the stated time limit in the proposal of the seller. In case the time limit for response is not clearly announced, the validity of a customer's proposal for conclusion of contract shall be terminated within twelve (12) hours from the time of sending such proposal without receiving the response of the seller.

A response to acceptance or denial of the proposal for conclusion of contract must be done in the appropriate form so that the information can be stored, printed and displayed in the customer's information system. The time of conclusion of a contract upon the use of an online ordering function on e-commerce websites occurs when the customer receives the seller's acceptance of the customer's proposal for conclusion of the contract, which must include the following information: (a) list of all goods or services that customers have ordered, the respective quantity and price thereof and total value of the contract; (b) the time of delivery or service provision; and (c) seller's contact information. Customers can send notifications on the termination of their contract with a seller by using the provided online tools that the seller provides on their website.

A notice by e-document of a proposal for conclusion of contract without a specific recipient, i.e., those generally displayed on e-commerce websites, shall not be considered as a proposal for conclusion of

contracts, unless the proposer has expressly specified their responsibilities upon receipt of the acceptance of such proposals from customers. Conversely, as described above, if an e-document is created and sent by a customer using the online ordering function, it shall be regarded as a valid proposal for conclusion of contract.

Information provision

E-commerce websites must provide customers with prescribed information before customers submit their proposal for conclusion of a contract, including information about the goods and services, price, general transaction conditions, shipment and delivery, and payment method.

E-commerce website must permit customers to review, supplement, modify and confirm the transaction contents before using the online ordering function to submit the proposal for conclusion of a contract. This mechanism must:

- (i) display the following information to customers: name of goods or services, the number and type; method and time of goods delivery or provision of services; total value of the contract and the details regarding the payment method selected by the customer;
- (ii) such information must be capable of being stored or print on the system of the customer and be capable of being displayed at a later date;
- (iii) display information about the way for customers to respond to the proposal for conclusion of contract and the time limit to respond to the proposal for conclusion of contract; and
- (iv) permit customers to select the cancellation of transactions or confirmation of the proposal for conclusion of contract.

Obligations of Owners of E-commerce Websites with Online Payment Function

The owners of e-commerce websites with online payment function must publish on their website policies on the security of customers' payment information; ensure the safety and security of customer's payment transactions; handle complaints; and compensate for damages in case the customer's payment information is illegally changed, deleted, removed, duplicated, disclosed, moved or appropriated causing damage to customer.

Issues Related to E-documents in E-commerce Activities

E-document is a contract, request, notice, certification or another document in the form of data message provided by relevant parties and related to the conclusion or execution of a contract, excluding bills of exchange, promissory notes, bills of lading, shipping invoices, goods received notes / goods dispatch notes or any other transferable documents which allow the holders or beneficiaries to have the right to receive goods or services or be paid an amount of money.

E-documents used in e-transactions will be deemed to have the same validity as an original copy if the data message in such e-documents satisfies the conditions of integrity from the time of its creation, and is accessible and usable in its complete form as needed. Such data message is not

automatically deemed valid as legal evidence which will be determined both on the basis of its integrity and the reliability of the method of creating, storing or transmitting the data message; the method of identifying the creator and on other relevant elements.

Data messages in e-documents are assessed to be integral when it is in its complete form without any change or amendment, except for a change of format arising from the process of exchanging, storing or displaying such data message. The reliability of such data message is determined on the basis of the agreement of the involved parties to apply one of the prescribed methods, in particular:

- (i) e-documents are signed / executed by using a digital signature provided by a licensed digital signature certification service provider at the link ([Danh sách các đơn vị đã đăng ký Hoạt động Cung cấp dịch vụ Chứng thực hợp đồng điện tử - Online.Gov.VN](#));
- (ii) such e-documents are stored in the system of an e-contract certification service providers who is agreed / selected by the involved parties;
- (iii) such e-documents are ensured to be integral by technical infrastructure service providers for creating, storing and transmitting e-documents during the transmission and storage on its system; or
- (iv) other mechanisms / measures are agreed by the involved parties.

Digital signatures used in certifying e-documents must be provided by a local digital signature certification service provider who has been granted a license for provision of public certification of digital signatures in Vietnam or a foreign digital signature certification service provider who has been granted a license for provision of such by Vietnamese authorities.

To gain further insight into this topic, please check our special alert [“Vietnam – New Comprehensive Legal Framework for E-transaction”](#).

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