

SOME NOTABLE PROVISIONS IN THE DRAFT LAW ON PROTECTION OF CONSUMERS' RIGHTS (AMENDED)

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After almost 11 years of implementation, several provisions of the Law on Protection of Consumers' Rights 2010 have been no longer consistent with the reality, causing many problems and inadequacies as many new Laws related to transactions between consumers and business organizations and individuals have been promulgated or amended; besides, the economic and social development as well as the Covid-19 pandemic have created and promoted many new forms of business and consumption, especially transactions in digital environment, cross-border transactions, shared services on digital technology platform, etc. Therefore, in order to ensure the interests of consumers in the changing economic and social context, the Draft Law on Protection of Consumers' Rights (**the Draft Law**) has been drafted and is now in the process of collecting opinions. In this Legal Newsletter of January 2022, NHQuang&Associates would like to review some key points of the Draft Law (Draft 2) posted on the Government Portal.

Regulations on responsibilities of business organizations and individuals towards consumers

In addition to the stipulations on main responsibilities of business organizations and individuals in ensuring the safety and quality of products and services provided to consumers, the Draft Law has made a notable change in the regulations on the responsibility to protect personal information of consumers.

Currently, in the Law on Protection of Consumers' Rights 2010, the stipulations on the responsibilities of business individuals and organizations in protecting consumer information are not specific, only focus on the obligations of ensuring information safety and confidentiality when engaging in transactions, utilizing goods and services, performing other obligations such as

informing, ensuring the safety and accuracy when collecting, exploiting and transferring consumers' information. The Draft Law has detailed the issues related to personal information privacy through particular articles from Article 7 to Article 12. Specifically, the Draft Law stipulates the protection responsibility and policy; notification when collecting information; use of information; safety and security assurance; the check, update, adjustment, transference or cancellation of consumers' personal information. In addition, the obligation of protecting consumers' personal information is not only limited to the scope of the Law on Consumer Protection as before, but also subject to other legal provisions related to the protection of personal information.

The changes in the Draft Law are consistent with the appearance of new forms of business and consumption as well as the general spirit of relevant legal documents such as the Law on Cyberinformation Security, the Draft Decree on personal data protection. This shall contribute to protect the interests of consumers in the context where science, technology, and economy develop rapidly. However, on the side of business individuals and organizations, especially the third parties engaging in transactions, they will face more challenges and responsibilities in building a professional system to protect consumers' personal information as well as in clearly defining the scope and responsibilities of the parties engaging in transactions for information security.

Regulations on prohibited practices for intermediary platforms

In addition to complying with the prohibitions for business organizations and individuals generally under Clause 1, Article 16 of the Draft Law, intermediary platforms should pay more attention to

the prohibited acts that the Draft Law specifically regulates for them, including:

(i) Performing acts to force or prevent consumers from registering or using other online intermediary platforms as a mandatory condition for using the service.

(ii) Limiting consumers' choices through unreasonable prioritization of product selection among organizations and individuals providing business on the platform; using measures to prevent

from displaying or dishonestly displaying the results of customers' feedbacks and evaluation about products and services; about organizations and individuals doing business on the platform.

(iii) Preventing consumers from removing pre-installed software and applications or forcing users to install software and applications with online intermediary platform services.



In the case where organizations violate the laws on protection of consumers' interests, depending on the nature and seriousness of their violations, they will be administratively sanctioned accordingly. If they cause damage, they must pay compensation in accordance with legal provisions. In the current context of digital technology development, purchasing and selling on intermediary platforms is highly increasing, and there are many potential risks when the subject directly transacting with the customers and the seller are different parties. Therefore, prescribing the prohibited acts for intermediary platforms can contribute to raising awareness of these organizations about protecting legitimate interests of consumers, since it is the business ethics of any subject participating in commercial transactions, not the sole responsibility of organizations and individuals trading goods and services.

Regulations on selection of dispute settlement methods

In Article 52 stipulating the methods of settling disputes between consumers and business organizations and individuals, the Draft Law adds Clause 3: "In the cases where it is required by law, consumers and business organizations, individuals can choose to settle disputes directly or online".

The above addition aims to meet practical requirements, simultaneously, it is in line with the trend of online dispute resolution strongly applied in the development period of information technology and international trade, especially in the context of the unpredictable Covid-19 pandemic. Such provision also allows the involved parties to apply appropriate methods to settle disputes, especially in cases of geographical distance or pandemic, health problem, etc. that results in the inability to attend the trial in person. Moreover, the National Assembly has also passed a Resolution on the organization of online trial, hence the addition of this content to the Draft Law also contributes to approach and conform to the reality and development trend of protecting consumers' interests domestically and internationally.

Currently, the Draft Law is still undergoing consultation and may have other significant amendments. Enterprises should frequently update the relevant information and follow up the drafting process to ensure that their activities as well as policies comply with provisions of laws. We shall continue with further update once the Draft Law officially takes effect.