



Doing business in Vietnam

Focusing on consumer
sector 2020

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Overview

Vietnam is one of the most dynamic emerging markets in Southeast Asia. A population of more than 96 million – 70% of whom are under the age of 35 – experiencing rapid and continuing growth in discretionary income has fuelled a consumer spending boom that is expected to continue well into this decade. The middle class, which currently accounts for 13% of the population, is expected to double by 2026, and Vietnam's younger generation are rapid adopters of new technologies and voracious consumers of both goods and services.

Vietnam is the most globally connected country for trade with a trade to GDP ratio of nearly 200% in 2019, and has positioned itself as both an attractive alternative and strategic hedge to China for manufacturing and exports in the region. With a stated goal of becoming one of the top 20 most competitive economies in the world by 2045, Vietnam's government is actively working to harness the potential of digital technologies across all sectors of the economy.

Consumer protection

The Law on Protection of Consumers' Rights ("**LPCR**") is the primary statute under which the rights of consumers are protected in Vietnam, though additional legislative protections are accorded under the Law on Advertising, the Civil Code and regulations relating to labelling of goods, registration of general terms and conditions and use of model contracts. The Ministry of Industry and Trade, with support from local Departments of Industry and Trade, is the regulatory authority that administers and enforces the LPCR.

The LPCR seeks to regulate the behaviour of suppliers, including prohibiting suppliers from making false or misleading misrepresentations concerning the supplier's reputation or the nature or quality of its products. Suppliers are also prohibited from exerting undue pressure or influence on consumers to enter into a transaction, harassing consumers through the marketing of goods and/or services against their wishes, or obstructing or affecting the activities of consumers.

Under both the LPCR and the Civil Code, ambiguities in a model contract or general terms and conditions are to be interpreted in favour of consumers rather than suppliers. The terms of a model contract or general terms and conditions will additionally be invalid if, among other things, they seek to waive legal liability of a supplier under the law, restrict or exclude the right of consumers to take action against a supplier, permit a supplier to unilaterally alter the agreed terms of a contract, or allow a supplier to unilaterally set or change the price of goods or services at the time of delivery thereof.

A consumer may lodge an administrative complaint with the competent regulatory body if a supplier violates the LPCR and causes damage to the consumer, the government or the public. Alternatively, a consumer may commence a civil claim in a court or arbitration forum if a supplier breaches the contract between the supplier and the consumer, subject to the terms thereof.







Product regulation

Product regulation and liability is governed by a patchwork of laws, often quite specific to the type of goods in question. Different categories of goods will be covered by different regulations and often fall within the jurisdiction of different regulatory bodies. For example, pharmaceutical products, cosmetics and health related products are regulated by the Ministry of Health, while IT and network related services are regulated by the Ministry of Information and Communications.

The LPCR requires suppliers (including manufacturers, importers, retailers and other persons marketing goods under a trade name or trademark) to recall defective products and

pay damages to consumers if the defective goods have caused damage to life, health or property, even if the supplier was not at fault or even aware of the defect. Suppliers may be exempted from liability, however, if it would not have been possible to detect the defect given scientific and technical knowledge available at the time of supply.

Food and beverages are broadly governed by the Law on Food Safety and its implementing legislation. The Ministry of Health and its local agencies are responsible for overseeing and enforcing food safety regulations.

Litigation

Vietnam receives poor marks in most international 'rule of law' rankings for topics such as order and security, regulatory enforcement, absence of corruption and civil justice. This is unfortunately reflected in the country's court system where inefficient procedures, lack of judicial sophistication, lack of transparency and a sense that decisions are often influenced by extra-judicial considerations are the norm.

Alternative dispute resolution through mediation or arbitration is often preferred, with local institutions such as the Vietnam International Arbitration Centre increasingly recognized as a viable option.

Foreign arbitration is also possible due to Vietnam being a signatory to the New York Convention on the recognition and enforcement of foreign arbitral awards, though probably out of reach for the average local consumer.

If a supplier's standard form contract contains a mandatory arbitration clause, Vietnamese consumers have the right to select an alternate method of dispute resolution (e.g. submission to local courts), notwithstanding such mandatory arbitration provision. Consumers are also not required to deposit court fees in advance, in order to make litigation more accessible to individual consumers.







Intellectual property

Vietnam is a member of numerous international treaties relating to the protection of intellectual property rights (“IPRs”), including: the Berne Convention for the Protection of Literary and Artistic Works; the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations; the Paris Convention for the Protection of Industrial Property; the Patent Cooperation Treaty; and the Madrid Agreement Concerning the International Registration of Marks. Vietnam has also recently joined the Hague Agreement Concerning the International Deposit of Industrial Designs, thereby enabling registration of international industrial designs in Vietnam.

Consumers can also look forward to further improvements to the current IPR protection regime following Vietnam’s impending ratification of the European Union-Vietnam Free Trade Agreement (“EVFTA”). The EVFTA is expected to bring with it a number of significant changes

to the protection and enforcement of IPRs in Vietnam, including in relation to the protection of geographical indications, copyrights and related rights.

The Law on Intellectual Property provides the legal framework for the establishment and protection of IPRs in Vietnam. IPR holders can protect and enforce their IPRs in Vietnam by seeking civil, administrative or criminal redress, but in general administrative actions involving the Inspectorate of Science and Technology, the Customs Department, the Market Surveillance Department and the Economic Police are currently the primary means for enforcing IPRs in Vietnam. There is currently no specialized IPR court in Vietnam, making civil actions both costly and time-consuming to pursue. It is hoped the situation will improve as Vietnam implements further changes in order to comply with its international treaty commitments.

Tariffs and customs

Vietnam imports and exports are governed by domestic regulations such as the Law on Import Duty and Export Duty, as well as international treaties such as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership and the EVFTA. Imported goods are subject to import duties as well as local value added taxes at either a 0%, 5% or 10% level, depending on the type of goods. Certain goods such as liquors and tobacco products, automobiles, motorbikes and aircraft are also subject to special additional sales taxes.







Data privacy

There is no specific data privacy law in Vietnam, but matters of personal data privacy and protection are touched upon in a number of laws and regulations including the Civil Code, Penal Code, Law on Information Technology, Law on Cyber Information Security, Law on Cybersecurity and other specialized regulations regarding children, medical health, credit institutions, consumer protection, telecommunications and e-transactions. The common thread running through all of these regulations is that any collection, use, processing or transfer of personal information requires prior consent from the data owner.

There are, however, broad exceptions to this policy, and in general personal data privacy and protection is much less secure in Vietnam than in other jurisdictions. For example, both the Law on Cyber Information Security and the more recent Law on Cybersecurity require personal data to be handed over to State authorities without consent of the data subject upon the request of such State authorities. Similar exceptions exist for purposes of national security and preservation of social order. Consumer companies operating in Vietnam will therefore need to carefully balance Vietnamese legal requirements with their own internal policies, contractual commitments and data privacy obligations in other jurisdictions.



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