

Solution to Protect the Interests of Consumers in the Form of Online Commerce in Vietnam to Day

Ho Ngoc Anh

University of Transport and Communications, Hanoi, Vietnam

Abstract: *According to calculations by the Vietnamese authorities, Vietnam's e-commerce growth rate will reach over 20%, however, this figure is in fact over 30% and may reach the level of over 30% more than 40% in the coming years. However, consumer protection in this area is revealing many shortcomings. The Consumer Protection Law, implemented on July 1, 2011, has successfully solved more than 80% of consumer complaints. However, the infringement of consumer rights still occurs, especially when the protection mechanism and measures are not strong enough; Current regulations are only suitable for traditional transactions. These shortcomings require early resolution, thereby helping consumers struggle to protect their rights.*

Keywords: Solution, Protect the Interests, Consumers, Online Commerce, Vietnam

1. Introduction

According to statistics of Google and Temasek, as of 2018, Vietnam has 64 million people connected to the internet, accounting for 66% of the population, on average each Vietnamese owns 1.4 internet-connected devices. Statistics also show that of these, up to 62 million Vietnamese use the internet with social networks.

"If the statistics in the field of delivery for e-commerce, the growth is even higher. According to the Vietnam E-Commerce Association, period 2018-2020, the growth rate of delivery for E-Commerce is 60%, businesses have the lowest growth rate of 30% and higher units can reach 70%. This growth is higher than the expectations of the managers when drafting the policy" (Tuan, N. H., 2019)

Although growing rapidly and booming, the phenomenon of taking advantage of online business forms to commit legal violations, causing damage to consumers, is also becoming increasingly common. In particular, users often fall into the case of providing incomplete and inaccurate product information, failing to perform the responsibility to provide invoices, transaction documents, violating liability onions, delivery, receipt, exchange, return of goods, delivery of goods damaged but not recovered, canceled orders without reason.

In addition to service quality, the biggest problem of Vietnam e-commerce is now fraudulent goods. In 2018, an estimated 36,000 products were removed from e-commerce platforms, about 3,100 stores on the floor were locked. This is just a statistic on some large exchanges, if expanded more, this figure will be even higher (Consumer Protection Association, 2018).

"Currently, despite the rapid development, Vietnam is still in the early stages of the e-commerce market, consumers are still vague in transactions, thus minimizing disputes between buyers and e-commerce platforms need the initiative, awareness of enterprises and the professional competence of executives "(Consumer Protection Association, 2018).

2. Scope of Study

The research scope of the paper focuses on online shopping between merchants and consumers. Online sales activities are carried out on Website online (mainly in the form of sales transactions between individual consumers) and Website operates in the form of commodity exchanges. Co-sales of goods through commodity exchanges, including forward contracts and option contracts) are not included in this subject. The analysis clarifies the rights of consumers, while clarifying the limitations and inadequacies of consumers in e-commerce activities. Since then there are proposed solutions to ensure consumers' rights in electronic transactions.

The article focuses on the protection of consumers' interests in online sales activities. Specifically, transactions between consumers and business organizations and individuals through electronic transactions. Consumers in other fields are not covered by this research.

3. Research Methods

To implement this topic, the author uses traditional legal scientific research methods such as analysis, synthesis and systematization methods.

The thesis also uses research and analysis methods such as: sentence analysis of law documents, historical analysis method, development analysis, etc. In order to clarify the current provisions of Vietnamese law on the form of e-commerce in general and the law to protect consumers in online sales activities in particular, the author also studies legal documents of the State of the Socialist Republic of Vietnam. The author also conducted a survey on consumer evaluation of online shopping.

4. Research Content

4.1. Consumers in E-Commerce

Consumer or consumer is a broad term used to refer to individuals or households using products or services produced in the economy. The concept of consumers is used

in many different contexts so the usage and importance of this concept can be very diverse. Consumers are the people in need, able to buy products and services on the market for life, consumers can be individuals or households. As such, "consumers are people who buy and use goods and services for consumption and living purposes of individuals, families and organizations" (Act to protect the interests of consumers, 2010).

Note: Consumers are not necessarily "buyers"! For example: Users of goods and services purchased by family members are also consumers; people who buy or use goods or services for production or resale purposes are not considered consumers. For example: people who buy sugar, rice, flour of all kinds ... processing confectionery or resell are not consumers.

Consumers in the form of online selling, in addition to the provisions above, consumers in the form of online selling may also understand as follows:

Shoppers via Internet: Consumers can view product images via networked devices. Vietnamese consumers tend to use mobile phones and social networks to conduct transactions and online shopping.

Buyers through virtual distribution channels: With traditional shopping, goods are distributed to stores, with online shopping, goods are distributed via electronic exchanges, auction website and social network.

Shopping anywhere and anytime: Consumers can choose and buy and sell at home through Internet access with payment via credit cards. Especially when the current use of high-speed Internet is becoming popular and convenient, affordable, consumers can sit at home to choose products with full sound, images, information specifications, convenience and time-saving compared to having to search for goods in shops and supermarkets.

Many goods, many suppliers to choose: With e-commerce business methods, the number of goods that stores and businesses provide and is diverse, plentiful and easier to choose than with traditional business forms. In fact, consumers have to spend a lot of time traveling between stores and even at a store, it takes a lot of time and it is difficult to choose or search for a product.

4.2. Situation of customer protection in the form of E-Commerce in Vietnam

In the context of increasing e-commerce transactions, the increasing trend of e-commerce transactions, the Ministry of Industry and Trade has chosen the theme "Consumer protection in e-commerce" to implement the Vietnam Consumer Rights Day event in 2020. The Ministry of Industry and Trade has just issued Plan No. 8261/KH-BCT on organizing activities to respond to the Vietnamese Consumer Rights Day 2020, with the subject: "Consumer Protection in E-Commerce".

Recently, the Department of Cyber Security and the Prevention of High-tech Crime (Ministry of Public Security)

has cooperated with Hanoi Market Management Department and Ho Chi Minh City Police Department to simultaneously check 5 selling locations goods and warehouses of two websites menshop 79.com and menshopfashion.com, seizing nearly 2,000 products with signs of counterfeiting: Gucci, Louis Vuitton, Hermers, Versace, Burberry, etc. The products seized are many types of goods: clothing, shoes, bags, leather wallets, belts, eyewear ... with signs of counterfeiting: Gucci, Louis Vuitton, Hermers, Versace, Burberry ... all There are no invoices and documents proving the origin. According to the legal representative of well-known brands in the world, which have been registered for protection in Vietnam, the products sold on the two websites are all fake.

At the seminar, the training "Consumer protection in e-commerce" was organized by Department of E-Commerce and Digital Economy in collaboration with Department of Competition and Consumer Protection (Ministry of Industry and Trade) held on April 18, 2019, Deputy Minister of Industry and Trade Dang Hoang An, information and E-Commerce in Vietnam are making a strong breakthrough with an average growth rate of 25-30%. In 2018 alone, the growth rate of Vietnam's e-commerce reached a growth rate of 30%, with the total E-Commerce retail revenue of over US \$ 8 billion (Vietnam General Statistics Office, 2019). However, along with the growth of e-commerce, counterfeit goods, intellectual property rights infringement products are increasingly increasing on online stores, and the violations are also increasingly sophisticated.

In the first 6 months of 2018, the Customer Service Center of the Competition and Consumer Protection Department (with a toll free number nationwide 1800. 6838) recorded 3,953 incoming calls, of which, the Department's call centers received and answered 2,240 calls, accounting for 56.67%.

Out of 2,240 calls that were answered by employees, 987 were related to requests for support to resolve complaints or reflect violations of consumer rights. The remaining calls contain advice on other areas. Most of the cases or requests for consumer advice were consulted by the call centers immediately upon receipt. For cases under local authority (within a province or city or the value of small disputes, simple circumstances), the operators usually provide information and guide consumers to contact directly businesses, Department of Industry and Trade and the Consumer Protection Association in the locality. For complaints with complicated circumstances, with large dispute value or involving many consumers, the operator usually directly advises, supports and guides consumers to submit a complaint with pictures other methods to the Department of competition and consumer protection (email, postal mail, send via consumer protection website, come directly).

After nearly 8 years of implementation, the Law on Consumer Protection and guiding documents have contributed to drastic changes; at the same time, create solid basic frameworks and foundations to continue to create development in protecting the interests of consumers in Vietnam.

Accordingly, a system of legal documents and management agencies from the central to local levels and a network of Consumer Protection Associations has been formed; awareness of consumer protection is raised; the receipt, settlement of complaints, recall of defective products, warranty and implementation of the responsibilities of the enterprise in accordance with the Law on Consumer Protection are carried out.

In particular, with its position as a direct target of the legal system to protect consumers' interests, awareness and actions of businesses in Vietnam, there has been a clear change, showing initiative and effective.

Statistics of the Ministry of Industry and Trade show that the number of consumers' cases to the Ministry of Industry and Trade increased from 26 in 2011 to 263 in 2012, 450 in 2013 and maintained an average of nearly 1,500 cases in the period 2014 - 2018. The average success rate of resolving cases at the Ministry is over 90%.

4.3. Some inadequacies

In the implementation process, there were many shortcomings in the provisions of the Law on Consumer Protection and guiding documents.

In particular, all current regulations are only suitable for traditional consumer transactions and business without taking into account some new and modern methods, especially the development of e-commerce and scientific and technological revolution 4.0.

Moreover, propaganda activities are still small in nature, unified set of unified documents on popular enforcement, legal education to protect the interests of consumers are still spreading, lacking focus, not close to the need.

Particularly, popular objects only focus in big provinces and cities, have not spread to remote areas, have no direct access to consumers and no specific propaganda activities with group's specific consumer objects.

In particular, the reception and handling of consumers' requests and complaints have not yet met the reality because each year, only 1.000 to 1.500 cases are resolved. This number is very small compared to actual consumer transactions in Vietnam.

Sharing this view, Mr. Kieu Duong, head of the Legal Policy Department (General Department of Market Management) said that, according to statistics, over the 5 years from 2014 to 2018, on average each year, the marketing management agency schools at all levels inspected over 160.000 cases, detected and handled over 103.000 cases. This figure accounts for 45% of the total administrative handling cases of all branches and forces nationwide.

Although the number of large-scale serious violations discovered and handled originated from consumer complaints, it accounted for only 3% of the total amount of information originally processed from the complaint of consumers.

Besides, a number of problems have arisen in practice but have not been prescribed by law. Specifically, the emergence of the business model in the form of platform (Uber, Grab, peer-to-peer lending models ...); joint responsibility of e-commerce floor owners; transboundary dispute resolution mechanism, etc.

4.4. A few solutions to Protect Consumers in E-Commerce

In order to overcome the inadequacies and limitations of the Law on Consumer Protection and the current guiding documents, the Government should review and amend the provisions of the Law on Consumer Protection which is particularly important to consumers in E-Commerce, creating a uniform and consistent legal framework to suit the current economic and social situation.

The Government and the Ministry of Industry and Trade have issued a number of specific documents on e-commerce activities as well as state management in this field, with the goal of establishing a legal corridor for transactions. E-commerce is conducted transparently, on the basis of healthy competition, protecting consumers, improving the efficiency of State management and promoting the field of e-commerce.

Specifically, the Government issued Decree No. 52/2013/ND-CP dated May 16, 2013 on e-commerce and Decree No. 08/2018/ND-CP dated January 15, 2018 amending a number of The Decree relates to the conditions for business investment under the state management of the Ministry of Industry and Trade.

In order to specifically guide a number of provisions related to the operation management of e-commerce websites and applications, the Ministry of Industry and Trade issued Circular No. 47/2014/TT-BCT dated December 5, 2014 and Circular No. 59/2015/TT-BCT dated December 31, 2015. These two Circulars are amended some articles by the Ministry of Industry and Trade's Circular No. 21/2018/TT-BTC of August 20, 2018.

Under the aforementioned decrees and circulars, traders, organizations and individuals that own websites and E-commerce applications must carry out procedures for registration, notification of websites and online e-commerce applications online at the E-commerce management portal at www.online.gov.vn.

Managers and lawmakers should have strong sanctions to handle sales websites that do not strictly comply with the law: advertising, product quality, and quality of service to consumers. Detailing details of penalty frames for easy handling when service providers violate the law on E-commerce.

Research should be conducted to apply a collective lawsuit mechanism for acts of deceiving customers, infringing upon the interests of consumers on a large scale and large geographical area so that consumers can gather the necessary resources set to pursue the case. Supplement regulations on the sequence, procedures, conditions,

procedures, and manner of conducting specific, detailed lawsuits to facilitate the process of applying laws to consumers. At the same time, in order to support the collective lawsuit, the State can study the establishment of a collective lawsuit fund, in which, the State will provide a partial support when setting up the fund, making it a talented tool. It is helpful to support the class action to ensure consumer rights.

Supplement specific legal provisions on the assignment and assignment between management agencies from the central to local levels. It is necessary to enhance the effectiveness of the Competition Administration Department's decision on the case resolution of the Ministry of Industry and Trade using the State's coercive force in case the decision is not enforced. The law should stipulate that the Competition Administration Department has the right to handle violations and have the right to request the Ministry of Industry and Trade to issue a decision banning sales promotion, circulation of products on the Vietnamese market that are distributed currently capable of endangering the lives and health of consumers.

5. Conclusions

It can be seen that, although the law on Consumer Protection has been born, propagated and implemented for many years, many consumers still have their rights violated due to their lack of interest and understanding to protect myself, etc.

The Ministry of Industry and Trade has implemented many activities to protect the interests of consumers, but in reality, the situation of violating the interests of consumers has been common and increasingly complicated. Even many consumers silently ignore, there are many cases where they do not know if their rights are violated, where can they complain, how to protect themselves. Therefore, besides the efforts of the authorities, associations and the support of businesses, consumers themselves need to understand the law to protect themselves.

This year, under the theme of "Healthy Business - Sustainable Consumption", in March and April 2019, the Ministry of Industry and Trade will organize many activities in response to "Vietnam Consumer Rights Day". At response programs and events, consumers will enjoy many incentives when participating in commodity trading activities such as: Increasing the warranty period, supporting maintenance, free maintenance of products, accumulate points when shopping, and get more gifts and discounts for products up to 50%.

In order to better protect consumers' interests, Vietnam's functional branches will continue to propagate, disseminate and enforce legal documents on consumers' rights, build a sense of initiative in protection. The consumers themselves when dealing, while raising the responsibility of state management agencies and social organizations in protecting consumers' interests.

The implementation of the programs on "Vietnamese Consumer Rights Day" will be an effective solution to propagate, disseminate and enforce legal documents on

consumer rights to create active consumers and a sense of self-protection when consumed.

At the same time, calling on the business community, associations ... to participate in organizing activities to protect consumers' interests, directly gratefulness to consumers at supermarkets, trade centers and service systems and product supply stores.

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