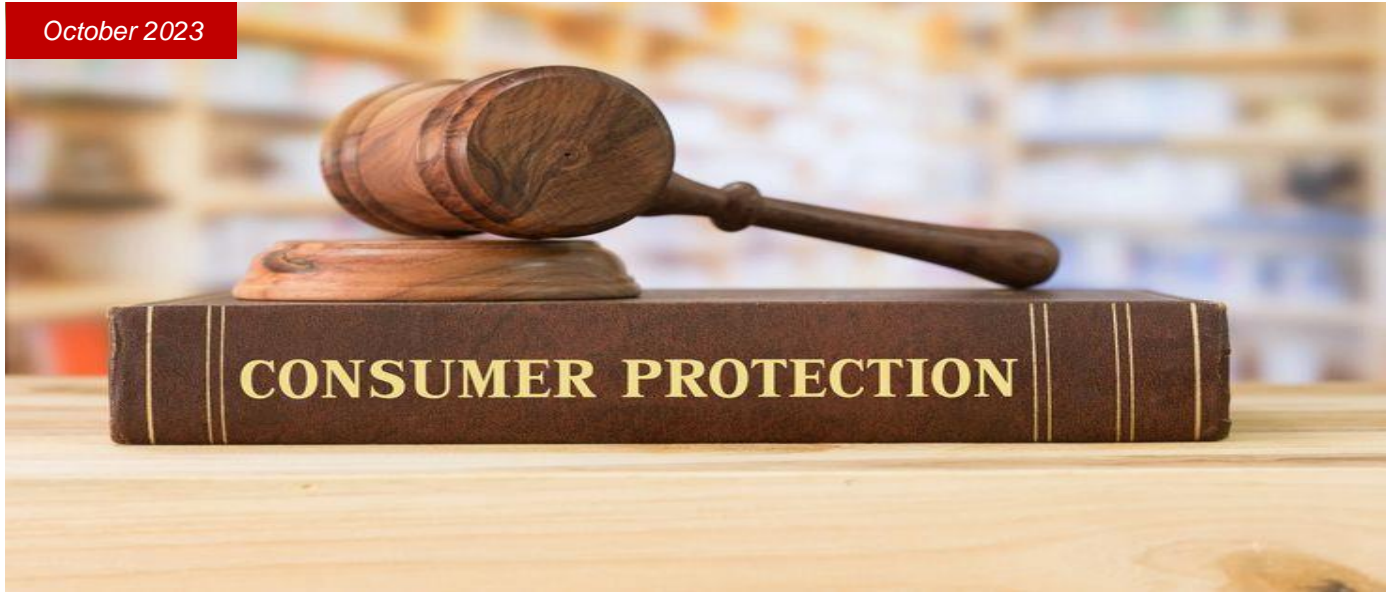


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VIETNAM TO STRENGTHEN THE PROTECTION OF CONSUMERS' RIGHT

On 20 June 2023, the National Assembly of Vietnam passed the new Law on Protection of Consumers' Rights (the "**LPCR 2023**") which will replace the current applicable law promulgated in 2010 (the "**LPCR 2010**"). The LPCR 2023, in addition to inheriting and retaining several contents under the LPCR 2010, amends and supplements regulations to address the shortcomings of the LPCR 2010 and keep up with modern consumption practices, especially in the rapid growth of e-commerce.

The LPCR 2023 will come into force on 1 July 2024 with some key changes which both onshore and offshore entities, that transact or do business with consumers in Vietnam, need to take into account.

More requirements for consumer privacy

Following the recent regulations on personal data protection, the LPCR 2023 provides additional general requirements for businesses in handling consumers' information.

Notably, business entities, or their authorized parties, are obliged to notify and obtain consumers' consent on purpose and scope of information collection and usage, and the information storage period before collecting and using consumers' information. Any changes thereafter must also be notified to consumers for

their consent. This may however not apply in case information is already publicized or otherwise provided by laws.

Furthermore, the LPCR 2023 requires businesses to ensure the security of consumers' data and adopt measures to prevent illegal and unauthorized actions. Additionally, traders, as the case may be, must establish consumer information protection rules. Such rules need to state purpose of collecting information, scope of information use, time limit for storing information and information protection measures and be publicized for consumers to access before or at the time of information collection.

Regulating commercial promotions via influencers

Commercial promotions via influencers, which is one of the marketing channels increasingly used by businesses, are now regulated under the LPCR 2023.

The LPCR 2023 defines "influencer" as expert, reputable person or person who is noticed by society in specific fields, industries and professions according to the Government's regulations, and assigns them responsibilities in promoting goods and services to consumers.

Specifically, when endorsing goods and services, influencers in the capacity of third parties are

responsible for (i) providing complete and accurate information about the products and services; (ii) taking joint liability with the relevant businesses for providing inaccurate or incomplete information about products and services; and (iii) disclosing to consumers in advance any sponsorships given by businesses.



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Stricter recall regime for defective products

The LPCR 2023 divides defective products into two groups, including (i) products with defects capable of causing damage to the life and health of consumers (Group A) and (ii) products with defects capable of causing damage to consumers' property (Group B). Accordingly, there are different recall regimes applicable for the two groups of defective goods, which the rules applied to Group A are stricter than those applied to Group B.

Particularly, traders having defective products under Group B are required to make announcements of defective products and the recall at their own business locations, websites, or in another equivalent manner until the recall ends. On the other hand, in case of faulty goods under Group A, besides the mentioned requirement, traders are obliged to publicly announce faulty goods and the recall of such goods for at least 5 issues of a daily newspaper or 5 consecutive days on radio, television, print and electronic newspapers in locations where such goods are circulated.

Protection of consumers' rights in specific transactions

Compared to the LPCR 2010, the protection for consumers in specific transactions, where the consumers' rights and interests are at risk of being infringed, is strengthened under the LPCR 2023.

- The specific transactions under Article 3.8 of the LPCR 2023 comprise remote transactions, provision of continued services and direct sales.
- Generally, regarding remote transactions, organizations establishing and operating large digital platforms are required to establish advertising archives using algorithms to target specific consumers; periodically evaluate content moderation, the use of these algorithmic systems and advertising targeting specific consumers; and periodically evaluate the handling of fake accounts, use of artificial intelligence and fully or partially automatic solutions.
- In addition, businesses providing continued services are imposed several obligations, including appointing an authorized representative in case of no legal presence in Vietnam, publicly notifying such authorized representative, and ensuring the quality of their services.
- For direct sales, the LPCR 2023 assigns responsibilities for businesses in each category of direct sales comprising door-to-door selling, multi-level selling, and selling outside the usual transaction locations.

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