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LEGAL



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# LEGAL UPDATE

NEW LAW ON THE  
PROTECTION OF CONSUMERS' RIGHTS



The new Law on Protection of Consumers' Rights will be effective from 1 July 2024 (**LPCR 2023**). It replaces the Law on Protection of Consumers' Rights 2010 (**LPCR 2010**).

Compared to the LPCR 2010, the new law adds one chapter on the liabilities of business organisations and individuals towards consumers in specific transactions.

We would like to set out some noticeable changes.

### 1. Sustainable Production and Consumption

This is the first time the concept of "sustainable production and consumption" is stipulated in the LPCR. The LPCR 2023 requires consumers to adhere to conditions and instructions for transporting, preserving, and using products, goods, and services as well as regulations on inspection, environmental protection and sustainable consumption. Ministries and the People's Committees at all levels shall be responsible for promoting sustainable production and consumption by way of encouraging and promoting investment, production, circulation, distribution, export and import of products, goods, services, and eco-friendly technologies to aim for a green and circular economy.

### 2. Prohibited Activities

The LPCR 2023 presents several prohibited activities towards organisations and individuals operating via direct selling such as asking to make a deposit, pay a sum of money or buy a certain amount of goods to participate in direct selling; providing false and misleading information to consumers and individuals for them to participate in direct selling. Regarding business organisations and individuals which establish, operate, and provide digital platform services, the LPCR 2023 prevents them from limiting consumers' right to choose by prioritising the

selection of products, goods, and services among business organisations and individuals providing on digital platforms without publicising the selection criteria. In addition, the LPCR 2023 prohibits, amongst others, the activity of not giving prior notice and not disclosing to consumers the sponsorship of influencers in any form such as using this person's image, advice, or recommendations to promote trade or encouraging consumers to buy and use products, goods, or services.

### 3. Liabilities of Business Organisations and Individuals to Consumers

The LPCR 2023 provides for liabilities of business organisations and individuals to ensure safety, measurement, quantity, volume, quality and uses of products, goods and services sold and provided to consumers. It also specifies their liabilities to protect consumers' information. In case of replacement of products or goods, the LPCR 2023 requires the warranty period to be recalculated.

In reference to the regulations governing the recall of defective products and goods, it is important to be aware of the LPCR 2023 setting out two distinct categories. Group A encompasses products and goods that may cause damage to the lives and well-being of consumers. Group B comprises products with the potential to cause damage to consumers' property.

Within the purview of each group, the law prescribes specific responsibilities pertaining to recall and facilitate a conducive environment for business organisations and individuals to identify the correct group and to ensure the implementation of recall measures through appropriate methodologies.

To comprehensively safeguard consumer rights, the LPCR 2023 augments regulations related to the responsibilities associated with rendering services that deviate from the registered, notified, announced, listed, advertised, introduced, and contracted specifications.

#### 4. Safeguarding the Interests of Vulnerable Consumers

The protection of vulnerable consumers signifies a novel regulation. Vulnerable consumer groups include:

- The elderly;
- Individuals with disabilities;
- Minors;
- Ethnic minorities;
- Residents in ethnic minority regions, mountainous areas, islands, locales facing intricate socio-economic challenges, and regions designated as exceedingly complex socio-economic territories in accordance with statutory provisions;
- Pregnant women or women caring for children younger than thirty-six months; and
- Persons grappling with severe illnesses and members of impoverished households, as defined by the law.

In line with the imperative of fortifying the safeguarding of the rights of vulnerable consumers, the LPCR 2023 delineates a series of precise obligations imposed upon business organisations and individuals. These obligations prominently include the responsibility to employ conflict settlement mechanisms for complaints and disputes, adhering to statutory provisions tailored to the unique circumstances of each vulnerable consumer.

#### 5. Some Specific Transactions

For certain specific transactions, the LPCR 2023 introduces supplementary regulations designed to bolster the obligations of both business organisations and individuals engaged in said transactions. These augmentations encompass:

- The unequivocal specification of requisite information to be furnished in remote transactions, coupled with additional responsibilities imposed upon entities and individuals conducting business with consumers in the realm of cyberspace;
- The regulation of responsibilities pertaining to the public declaration of the legal representative in Vietnam or the appointment of an authorised representative in Vietnam, alongside the obligatory disclosure of the authorised representative in Vietnam in the context of providing ongoing services. Under the LPCR

2023, continuous service provision is meant to be the provision of services for a period of three months or more or an indefinite period; and

- The inclusion of provisions pertaining to direct selling and transactions occurring outside regular transaction locales, concomitant with the specification of additional, context-specific obligations for business organisations and individuals when engaging in the above-mentioned transactions with consumers.

#### 6. Dispute Settlement Mechanism

The LPCR 2023 establishes consumers' entitlement to demand negotiations with business organisations and individuals, or alternatively, to petition the State's regulatory authorities responsible for safeguarding consumer rights and social organisations to intervene in the protection of consumers' rights. These negotiations are intended to provide support to consumers when their lawful interests and rights have been infringed upon. This approach is regarded as a means to continually enhance the effectiveness of dispute resolution between consumers and business entities and individuals.

Regarding the court proceedings, the law refines provisions pertaining to summary procedures applicable to the adjudication of civil cases related to consumer interests. This regulation is designed to introduce a transformative approach, potentially enhancing the efficacy of court proceedings in matters concerning consumer protection. Accordingly, civil cases involving consumer interest protection and transactions valued at less than VND 100 million shall be subject to summary procedures.

Furthermore, in cases where beneficiaries cannot be identified, compensatory damages in civil cases associated with the protection of consumer interests for public interests pursued by a social organisation engaged in consumer interest protection shall be allocated for the general welfare of consumers in accordance with government regulations.

#### Conclusion

The LPCR 2023 fixes shortcomings of the LPCR 2010 and its guidance documents to reflect the continuous changes in the economy and society. Hence, it meets the expectations of business organisations and individuals as well as consumers. However, further guidance is needed to efficiently implement the LPCR 2023.

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