

The Necessity of Revision, Arguments on Consumer Protection Law and Issues of Protecting Interests of Children Consumers

Nguyen Trong Diep,

LLD School of Law, Vietnam National University, Hanoi, Vietnam.

E-mail: dieptrongnguyenvnu@gmail.com

Dinh Tran Ngoc Huy,*

MBA, Banking University HCMC, Ho Chi Minh City, Vietnam.

International University of Japan, Japan. E-mail: dtnhuy2010@gmail.com,

ORCID: 0000-0002-2358-0699

Nguyen Anh Thu,

PhD, School of Law, Vietnam National University, Hanoi, Vietnam. E-mail: thuna@vnu.edu.vn

Ta Van Thanh,*

PhD, University of Finance-Marketing, Vietnam. E-mail: tvthanh@ufm.edu.vn,

ORCID: 0000-0001-9918-0352

Abstract--- This study will presentsuggestionsfor modifying Law on consumer protection. According to the context of Vietnam: As of April 2022, the Ministry of Industry and Trade has received comments from 21/22 ministries, ministerial-level agencies, 54/63 People's Committees of provinces and centrally run cities, and many comments from the public. law firms, businesses, consumer protection associations, international organizations and many domestic and foreign individuals and organizations.

The comments have been seriously studied and absorbed by the drafting agency in order to revise and complete the Law Project Dossier.

The Law on Protection of Consumer Rights 2010 has the structure of 51 Articles and 06 Chapters. Compared with the Law on Protection of Consumer Rights in 2010, the draft Law on Protection of Consumer Rights (amended) retains 08 Articles, amends 43 Articles and adds 29 new Articles.

Keywords--- Revision, Law on Consumer Protection, Necessity, Arguments, Hanoi, Vietnam.

JEL: K10, K15.

I. Introduction

As of 2022, According to a report of the Ministry of Industry and Trade, over the past time, the rate of successful negotiations between consumers and individuals, organizations and enterprises producing and supplying products when buying, selling and using products of poor quality has reached be very high, up to 80 - 85%. However, in many cases, after successful negotiation, consumers' rights have not been guaranteed in the most basic way.

On the basis of recognizing the existing problems of the negotiation method, the Draft Law being developed by the Ministry of Industry and Trade will have more specific regulations on the time and responsibilities of enterprises in receiving and settling requests and negotiations with consumers.

Research Question

Question 1: Presenting previous related studies on consumer protection law?

Question 2: What suggestionsfor modifying Law on consumer protection?

Question 3: What are issues of protecting interests of children consumers?

II. Literature Review

Many researchers note that online consumers should be guaranteed adequate protection equal to the protection provided to offline consumers. They have revealed that the problems that concern online consumers the most include seller anonymity, which is hard to track; the inability of consumers to check products and labels; and barriers to resolving disputes (Taylor et al. 2004).Huy, D.T.N (2015) also mentioned governance standards including standards for risk management activities.

Then we summarize previous studies in below table:

Table 1: Related Previous Studies

Authors	Year	Content, results
Lundequist and Power	2002	In past year ideas of interplay in knowledge strategic area set by planner
Falk and Hagsten	2015	The vulnerability of the global e-commerce market to fraud incidents and compensation issues is becoming increasingly important topics. This is also the case in the USA. According to US Federal Trade Commission data, in 2014, the ratio of various types of fraud on the Internet to the total number of all fraudulent transactions was 42% (which is equivalent to USD 55.7 million); in 2012, it was 45% (USD 110.3 million); and in 2013, this figure was equal to 55% (USD 166.6 million).
Matnuh	2021	In 2001, Indonesia established the Consumer Dispute Resolution Body (CDRB) based on the instruction of the Consumer Protection Act (CPA) in 1999 to provide consumers protection in exercising their rights and to settle disputes quickly, simply, affordably, and professionally. Compared to the systems established by several countries that submit common law systems in which dispute-solving cases are terminated by the special courts called Small Claims Courts or Small Claims Tribunals, CDRB construction in Indonesia was quite vague. Although it uses arbitration terminology, the CDRB lacks an arbitration mechanism because, in practice, the body examines consumer disputes, working formally as a court. The root of this problem arose from the inconsistent regulation in the CPA.
Lazar	2019	Presented The Potential Role of US Consumer Protection Laws in Improving Digital Accessibility for People with Disabilities.
Pham Minh Dat et al	2020	Mentioned some standards in China corporate governance code for corporations.
Nguyen KienBich Tuyen	2022	Article 6 of the Draft Law mentions contents aimed at protecting the interests of vulnerable consumers, such as: elderly consumers, disabled consumers, young consumers. children, consumers are ethnic minorities. This regulation shows humanity and benevolence, but the above list is not really exhaustive because there is another vulnerable group of consumers, the poor.

(source: author synthesis)

III. Methodology

Authors mainly use methods of historicalism and dialectical materialism combined with experiences, observations with experiences, practical situation with cases studies in Vietnam combined with qualitative analysis, synthesis and explanatory methods.

IV. Main Findings

4.1. Arguments on Revision of Consumer Protection Law

On protection of vulnerable consumers' interests (Article 6 Draft)VCCI believes that anti-discrimination, discrimination and exploitation policies should be regulated for all consumers and in all activities of individuals and business organizations towards consumers.

This not only ensures the interests of consumers but also facilitates the activities of individuals and business organizations. The regulation that "has a mechanism and policy to combat stigma, discrimination and exploitation" of vulnerable consumers is only in the "collection, storage and use of information" (point d, Clause 1 of this Article)., 2; Point dd Clause 3, Point c Clause 4 and Clause 5 Article 6) may lead to incomplete understanding and create gaps in the application of this regulation.

Currently, in specialized laws such as the Law on the Elderly (in Article 9), the Law on Children (in Article 5), the Law on People with Disabilities (in Article 14), the Law on Prevention and Control of Virus Infections that Cause Depression Syndrome. Human acquired immunodeficiency virus (HIV/AIDS) (in Article 8) has general provisions on prohibited acts including stigma and discrimination, but the reality does not seem to have come to life. Activities between individuals, business organizations and consumers also have many characteristics that, without more specific regulations, may lead to unintentional violations due to different interpretations. Therefore, it is proposed that the Drafting Board supplement specific regulations on acts of discrimination and discrimination in transactions with disadvantaged subjects to ensure the feasibility of this regulation.

4.2. Revision of Consumer Protection Law

There should be some following modifications:

4.2.1. Supplement Some Responsibilities of Business Organizations and Individuals Towards Consumers

Compared with the Law on Protection of Consumer Rights, the Law on Protection of Consumer Rights (amended) has a number of new provisions for the responsibilities of business organizations and individuals, specifically as follows:

- Supplementing a number of prohibitive regulations for business organizations and individuals, in which, there is a regulation that requires business organizations and individuals to fully comply with specialized legal provisions before implementing them. transactions with consumers; regulations on responsibility for notification of business organizations and individuals when using or taking advantage of images, advice and recommendations of influential and reputable people to promote trade or encourage consumers to buy, use products or services.
- Additional responsibility for ensuring the safety and quality of products and services provided to consumers.
- Supplementing regulations on the formulation and public announcement of warranty policies before being applied to consumers; about the recalculation of the warranty period for new replacement parts and accessories during the warranty period.
- Adding regulations to classify defective products according to the degree of impact, affecting consumers and responsibilities of business organizations and individuals corresponding to each type of defective product.
- Supplement regulations on responsibilities of business organizations and individuals when settling consumer disputes.

4.2.2. Completing Regulations on Model Contracts and General Trading Conditions

Compared with the Law on Protection of Consumer Rights in 2010, the Law on Protection of Consumer Rights (amended) contains a number of new regulations on control of contracts entered into with consumers, general transaction conditions, specifically: can be as follows:

- Supplementing the prohibition related to the provision of invalid terms in the model contract, general transaction conditions to be consistent with the Civil Code 2015 and create a legal basis for declaring invalidity. Under the civil procedure mechanism for cases covered by the Law on Protection of Consumer Rights.
- Supplementing regulations on the basic contents of the model contract in order to concretize the necessary contents that must be specified in the model contract. This additional content helps businesses have a legal basis when building contracts, ensuring legal compliance, better protecting consumer interests and meeting the requirements of law enforcement practice.
- Amending and supplementing provisions on terms of contracts concluded with consumers, general transaction conditions are not effective because the current cases in Article 16 cannot cover all unfair cases. between organizations, business individuals and consumers in the market. At the same time, the Draft amends a number of current cases to suit the flexible changes of economic life, such as the case of price changes or changes in general trading conditions for the case of service provision. continuous service.
- Other contents: In addition to the above contents, the Draft (i) Amends a number of provisions to uniformly adjust the model contract with general transaction conditions, such as requirements on form and language. language for model contracts, general transaction conditions; (ii) More specifically stipulate the responsibility to publicize model contracts, general transaction conditions, and (iii) Supplement the responsibilities of industry and field management agencies in coordinating with regulatory agencies. Competent state management on protection of consumers' interests in control of model contracts and general transaction conditions.

4.2.3. Additional Regulations on Some Specific Transactions

4.2.3.1. Completing Regulations on Transactions in Cyberspace

The Law on Protection of Consumer Rights (amended) adds a number of specific regulations on the responsibilities of business organizations and individuals with consumers in cyberspace transactions, specifically as follows:

- Clarifying the concept of organizations and individuals doing business in cyberspace.
- Clarifying the concept of digital platforms and digital intermediaries.
- Regulations on responsibilities of organizations and individuals doing business in cyberspace, in which, for organizations and individuals doing business in setting up, operating and providing digital intermediary platform services to consumers is responsible for implementing a number of additional contents, such as:

appointing, publicly announcing the contact point, authorized representative to coordinate with state management agencies in solving related issues. to protect the interests of consumers; designate, publicly announce the focal point to receive and resolve consumer complaints and complaints related to products and services.

- Regulation of third-party responsibilities for organizations and individuals trading in digital intermediary platforms.

4.2.3.2. Additional Regulations on Direct Sales

The Law on Consumer Protection (amended) adds a number of new regulations on direct sales.

- Clarifying the concept of direct selling; direct sales classification includes: door-to-door sales; multi-level selling and selling at locations that are not regular transaction locations.
- For door-to-door sales, the Law on Protection of Consumer Rights (amended) supplements the responsibility of business organizations and individuals for notifying door-to-door sales activities to the commune-level People's Committees of the localities where the goods are sold. pre-sales; at the same time, the Law also stipulates that business organizations and individuals must be responsible for all activities of door-to-door sales individuals.
- For multi-level sales, the Law on Consumer Protection (amended) adds a number of provisions as follows:
 - Regarding the responsibility of the multi-level sale organization, in which, it is responsible for buying back products at the request of the individual participating in the multi-level sale within 30 days from the date of receipt of the goods; be responsible for multi-level sale activities of multi-level sale participants.
 - About the responsibilities of multi-level sale participants.
 - To stipulate the establishment of a written contract between a multi-level sale organization and an individual participating in multi-level sale, on the basic contents of the contract of participation in multi-level sale.
- For activities of selling products and providing services at locations other than retail locations or regularly introducing services, business organizations and individuals are responsible for: notify the People's Committee of the Company. commune level at the venue before implementation; publicly post up information about business organizations and individuals and products and services at the place of sale; Maintain contact information, resolve consumer complaints and reflections during and after the sale of products or services. Along with that, the Law stipulates that consumers have the right to return products within 30 days from the date of receipt provided that the products are still in their original packaging, labels, and expiry date.

4.3. Issues of Protecting Interests of Children Consumers

There are some following issues:

First James (1979) mentioned Can children be characterized as consumers? This question appears to linger in the minds of consumer advocates and regulation agency members. An answer is attempted here through a review of some basic findings about the consumer behaviour of children.

Second, Macenaite (2018) pointed that the newly adopted EU General Data Protection Regulation 2016/679 (GDPR) has explicitly recognised that children deserve more protection than adults, especially online. Yet, as the GDPR's child-specific protection regime is new and without precedent in Europe, both its underlying logic and its practical implementation remain unclear. The chapter explores the extent to which EU consumer law, which has already taken account of children as a particularly vulnerable group of consumers, can inform the newly adopted General Data Protection Regulation.

Third, many studies indicated that we need to have children consumers online privacy protection. Andrews et al (2019) specified that extend previous cognitive defense research by examining (1) effects beyond advertising as applied to information privacy online; (2) not only children's/teens' beliefs and knowledge, but also their online privacy decisions; (3) multiple age categories; (4) multiple cognitive defense strategies (educational video, quiz with feedback, or absence of a strategy); and (5) children's/teens' motivation to restrict what they share online. Key results indicate significant effects of the quiz and educational video over the absence of a strategy in enhancing favorable online safety beliefs and in restricting online sharing. Findings also demonstrate the role of perceived parental influence and for agencies to offer privacy education campaigns to help empower children to protect their privacy.

V. Discussion and Conclusion

Therefore, we recognize that the revision on Law on Consumer Protection is become necessity in our context, exp. In e-commerce era rising.

Nguyen KienBich Tuyen (2022) mentioned we need to have clearer, more consistent and more appropriate regulations on the rights of consumers of financial services in the Law as well as other legal documents related to each issue such as interest rates, payment service provision and payment intermediary services, etc. This is in line with the spirit of Resolution No. 82/NQ-CP on the Government's action program to implement Directive No. 30-CT/TW on strengthening the Party's leadership and the State's management responsibility for protecting the interests of consumers. This resolution has identified one of the tasks, solutions and assigned responsibilities to the Ministry of Industry and Trade as "presiding over and coordinating with relevant agencies to review and evaluate the implementation of the Law on Protection of Rights and Interests of the Ministry of Industry and Trade. Consumers (2010), on that basis, propose amendments and supplements to the Law and related legal documents in line with the country's management requirements and international integration in the new situation.

The draft Law on Consumer Protection (amended) drafted by the Ministry of Industry and Trade has 7 chapters and 80 articles. The draft has received comments from 21/29 ministries, ministerial-level agencies, and government-attached agencies; and opinions of 54/63 People's Committees of provinces and centrally run cities; hundreds of comments from law firms, businesses, Consumer Protection Associations, domestic and international organizations and many related individuals.

Research Limitation

Authors need to make analysis for comparison for other countries and other markets.

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Conflicts of Interest

There is no conflict of interest.

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