

# Law on corporate social responsibility for consumers

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## ***Abstract:***

The law on corporate social responsibility (CSR) towards consumers is codified in the 2010 Law on Protection of Consumer Rights (LPCR). After more than 10 years of implementation, there are still some shortcomings and limitations that are not completely suitable nor fully meet the requirements of current economic development trends. On the other hand, due to various reasons, the systems of law enforcement agencies used to protect the interests of consumers in Vietnam has not been very effective as the number of undetected violations of enterprises remains high. Because of that, on March 29, 2021, the Ministry of Industry and Trade submitted statement No.1695/Ttr-BCT on the proposal to develop another LPCR (amended). In that context, the authors of this article focus on clarifying the legal provisions on CSR for consumers and the practice of law enforcement on CSR for consumers thereby pointing out the advantages and limitations of the law as well as its practical implementation. At the same time, this article provides solutions to improve the law on the responsibility of enterprises in protecting the interests of consumers.

***Keywords:*** consumers, protect interests, responsibility of enterprises.

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## **1. Introduction**

Protection of consumers<sup>1</sup> rights is one issue that has attracted the attention of society as a whole. Currently, a very common situation is taking place, not only in Vietnam, but also in many countries around the world; that is, the rights and interests of consumers are being regularly violated to various degrees. Therefore, many countries have recently passed laws to protect the legitimate rights and interests of consumers.

In Vietnam, the 2010 LPCR, passed by the National Assembly on November 17, 2010, was a major turning point in the legalization and socialization of consumer protection. In order to implement the 2010 LPCR, the Government,

relevant ministries, and agencies also issued various legal documents stipulating and guiding fields related to consumer rights protection.

Through the study of the legal system on consumer rights protection, it can be seen that the CSR of protecting the interest of consumers is an important issue that has been raised by different stakeholders in Vietnam for nearly 40 years, especially since Vietnam became the 150<sup>th</sup> official member of the World Trade Organization (WTO) in 2007. This is an important milestone in assessing the extensive international integration of the economy. Indeed, integration has brought about many new opportunities to Vietnam, but has also posed many challenges that each require domestic enterprises to prioritize the responsibility of protecting the interest of consumers. In addition, the legal practice also posed many challenges to the implementation of the LPCR due to the

<sup>1</sup>The term consumers are understood as individuals or groups of people who use the output of a business including products and services. According to Clause 1, Article 3 of the 2010 LPCR: "Consumers are the buyer or user of a goods or service for consumption or day-to-day activities of a person, a household or an organization".

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increasing number of foreign enterprises present in Vietnam. Therefore, it is necessary to study legal provisions on the responsibilities of enterprises as well as law enforcement in protecting the interests of consumers.

## 2. Overview of the law on CSR towards consumers

### 2.1. The concept of CSR

CSR is no longer a new concept, however, now there exist schools of thinking such as: “social responsibility implies raising corporate behaviour to a level consistent with prevailing social norms, values and expectations” [1], and “CSR encompasses the economic, legal, ethical, and philanthropic expectations of society towards organizations at a given time” [2]. I. Maignan, et al. (2004) [3] also introduced the following concept of CSR: “A business has a social responsibility when its decisions and activities aim to create and balance the different interests of the individuals and organizations involved”. According to the Private Economic Development Group of World Bank, CSR is “the commitment of businesses to contribute to sustainable economic development, through activities to improve the quality of life of employees and members of their families, for the community and for society as a whole, in a way that benefits both the business as well as the overall development of society” [4].

### 2.2. Legal concept of CSR to consumers

According to the *United Nations Guidelines for Consumer Protection* in 1985, the responsibility of enterprises towards consumers includes contents “related to fair marketing practices, protection of health and safety, and sustainable consumption, dispute resolution and compensation, data and privacy protection, access to basic products and services, addressing the needs of disadvantaged and vulnerable consumers, and education” [5]. In 1999, these guidelines were supplemented with provisions on sustainable consumption.

These guidelines called on countries to protect consumers from health and safety risks, promote and protect the economic interests of consumers, enable them to make informed choices, provide education to consumers, make effective consumer compensation available, promote sustainable consumption patterns, and ensure the freedom to form independent consumer groups [6].

In Vietnam, liability is understood in two senses of positive and negative. In a positive sense, one author believes, “responsibility is the duties legal subject are forced to do under supervision of others” [7]. Another author argues that *responsibility* “is often understood as the ability of people to be aware of the results of their behaviours, and at the same time, the ability to voluntarily perform the obligations that are set for them” [8].

In addition to the CSR that are understood in the positive sense, such as obligation and duty, the law also has provisions on legal liability in the negative sense. That is, the sanctions that will be applied to the enterprises in case those entities commit violations in the field of consumer protection, which are given specifically as follows:

- Administrative liability applied to individuals and organizations that commit administrative violations. The matters of violations, sanctioning forms, sanctioning levels, remedial measures, and authority to make records of administrative violations and sanctions are specified in Decree No. 98/2020/ND-CP dated August 26, 2020, of the Government on “prescribing penalties for administrative violations against regulations on commerce, production, trade in counterfeit and prohibited goods, and protection of consumer rights”.

- Criminal liability, which is applicable to individuals and legal entities committing criminal acts in accordance with the provisions of the Penal Code 2015 that was amended and supplemented in 2017.

- Civil liability, which is compensation for damage to consumers, is a civil handling method whereby the law protecting consumer interests stipulates that violators causing damage must compensate the consumers. The valuation of compensation for damage is based on the provisions of the LPCR and the Civil Code 2015.

From a legal perspective, the CSR in protecting the interests of consumers are general provisions of the law issued by the state to regulate the behaviour of enterprises, stipulate the obligations of enterprises in the production process to ensure the interests of consumers and regulations, as well as to sanction the businesses that violate the interests of consumers. These provisions are recognized in various legal documents, but the most concentrated is in the 2010 LPCR.

### **3. Present legal status and practice of law enforcement on the CSR in protecting the interests of consumers**

#### ***3.1. Responsibility for providing information to consumers***

Under international as well as Vietnamese law, consumers have the right to demand enterprises to practice fair marketing, genuine and unprejudiced information, as well as fair contracts to provide information about products and services that are easily understood by consumers. This allows consumers to make informed decisions on consumption and purchases and to compare the characteristics of various products and services.

Fair contract processes aim to protect the legitimate interests of both suppliers and consumers by minimizing imbalances in bargaining power between the parties. Responsible marketing practices can include providing information on social, economic, and environmental impacts throughout the entire value chain.

Detailed information about products and services provided by the supplier plays an important role in purchasing decisions as those

pieces of information may be the only data available to consumers. Marketing and information that is unfair, incomplete, or misleading can lead to the purchase of products and services that do not meet customer needs, resulting in a waste of money, resources, time and could even be harmful to consumers or the environment [9]. It can also lead to a decline in consumer trust as consumers do not know who or what to believe, and this could adversely affect the growth of the market for more sustainable products and services.

Businesses must disclose all prices and taxes, terms and conditions of products and services, and delivery costs. When giving credit to the consumer, companies should detail the actual annual interest rate as well as the annual fee percentage, including all associated costs in total, the payment amount, and the payment term each time. They must also provide complete, accurate, understandable, and comparable information in the official or common language of the place of sale and in accordance with applicable regulations.

The responsibility of third parties in providing information about goods and services to consumers is specified in Article 13 of the 2010 LPCR. Based on this provision, in recent years, many disputes related to purchases and sales through sales programs on TV or purchases on e-commerce service providers have been successfully resolved thanks to the coordination and direct support of the advertisement and e-commerce website providers.

The 2010 LPCR also clearly defines this content: 1) Forms of contracts concluded with consumers comply with the civil law; 2) A written contract with a consumer must use plain and understandable language, which is Vietnamese unless otherwise agreed by involved parties or provided by law; 3) When a contract is concluded electronically, a goods or service trader shall create conditions for a consumer to review the whole contract before its conclusion.

### 3.2. *Protecting the health and safety of consumers*

In protecting the health and safety of consumers, the organization should take the following objectives, as well as pay special attention to vulnerable groups (with special attention to children) who may not have the ability to recognize or evaluate potential hazards.

“Businesses need to provide products and services that are safe for users as well as others, safe for their property and the environment, under normal and reasonably foreseeable conditions of use. Evaluate the adequacy of laws, regulations, standards and other technical requirements to address all aspects of health and safety”<sup>2</sup>. Enterprises need to go beyond the minimum safety requirements and demonstrate that higher requirements can achieve significantly better protection demonstrated by the low frequency of “meeting minimum requirement product or service” related accidents, or by the availability of products or product designs to reduce the number or severity of accidents.

Enterprises must hold the responsibility of reducing risks associated with product design by identifying potential user groups, intended use, reasonably foreseeable misuse of the process, product, or service, the hazards that arise at all stages, as well as conditions of usage of the product, or service, and, in some cases, the provision of products and services specifically designed for vulnerable groups including pregnant women, and especially, in terms of time allotment, communication process, and risk reduction, by using the following prioritized list: inherent safety design, protective equipment, and user information. When developing products, the use of hazardous chemicals including, but not limited to, those that are carcinogenic, genetically modified,

toxic to recycling, or those that do not degrade or biologically accumulate should be avoided. If products containing these chemicals are offered for sale, they should be clearly labelled, a risk assessment of products and services to human health should be conducted before introducing new materials, technologies or production methods and, if it is appropriate, have documentation available to consumers that communicates essential safety information by using symbols where possible and preferably using internationally known symbols along with documented information. Additionally, enterprises should instruct consumers in the correct use of the product and adopt measures to prevent the product from becoming unsafe through improper transportation or storage by the consumer.

The 2010 LPCR also stipulates: “A consumer may have his/her information kept secure and confidential when making transactions and using goods or services except upon request by a competent state agency”<sup>3</sup>.

Products that do not ensure the health and safety of consumers must be recalled. The regulation on recalling defective goods is new content and, at the time of promulgation of the Law, many arguments for the implementation of a program to recall defective goods had partly proved the weakness of enterprises in the production of the goods. However, the reality of the past few years has shown that 100% of the programs to recall goods with defects are proactively implemented by enterprises and then notified to state agencies. The number of withdrawal programs tends to increase from year to year. In addition, the summary report of 13 enterprises shows that, currently, 7 out of 13 enterprises have actively implemented the program to recall defective goods in accordance with the provisions of the 2010 LPCR while 1 out of 13 enterprises implemented, but not fully, and properly complied with relevant regulations [10].

<sup>2</sup>TCVN ISO 19011:2003: Guidelines for auditing quality management systems and/or environmental management systems; TCVN ISO 22000: Food safety management systems - Requirements for organizations in the food chain.

<sup>3</sup>Article 8, the 2010 LPCR.



### **3.3. Protecting consumer data and privacy**

The purpose of data protection and consumer privacy aims to protect the privacy of consumers by limiting the types of information collected and how the information is obtained, used, and secured. The increasing use of electronic communications, including financial transactions and genetic testing, as well as the growth of large-scale databases, has raised concerns about methods used to protect the privacy of consumers, especially regarding personally - identifiable information.

To prevent the collection and processing of personal data from infringing on privacy, commercial entities should limit the collection of personal data to information that is essential to the provision of products and services or from voluntary consumers and those with informed consent. Commercial entities should not use services or claims of special offers in an agreement with the consumer for the intended use of data for marketing purposes and they should collect data only by lawful and fair means. Enterprises must specify the purpose for which personal data is collected, both before and during data collection, and they should not disclose, make available, or use personal data for purposes other than those specified, including marketing, unless the consumer has been notified and allowed it. Enterprises should give consumers the right to verify if the organization has data related to them and to verify this data as required by law. If the verification is successful, the data should be deleted, corrected, completed, or modified, as appropriate. Commercial entities need to protect personal data with adequate security measures. Additionally, they need to disclose the development, practices, and policies related to personal data and make available the means to establish the existence, nature, and primary uses of personal data, and disclose the identity and permanent position of the person responsible for data protection within the organization (sometimes called a data controller) and hold that person accountable for compliance with the measures above and relevant laws.

The law of the State of Vietnam also recognizes this as follows: “Consumers are assured of their safety and confidentiality when participating in transactions and using goods and services, except for the request of authorized state agencies”<sup>4</sup>.

In case of collecting, using, and transferring consumer information, organizations and individuals trading in goods and services shall have to: “Disclose the purpose of collecting and using consumer information; use the information in accordance with the purpose notified to the consumer and must be agreed by the consumer; ensure safety, accuracy, and completeness when collecting, using, and transferring consumer information; update and adjust information when detecting that such information is incorrect by themselves or by taking measures for consumers; only transfer consumer information to third parties with the consent of consumers, unless otherwise provided for by law”<sup>5</sup>.

As for the responsibility of protecting consumer information, although it is a new regulation, the summary report of 13 enterprises shows that 10 out of 13 enterprises have issued documents to regulate the protection policy of consumers; 11 out of 13 enterprises implement technical measures and guide for employees to implement internal policies and regulations on consumer information protection; and 100% of enterprises use consumer information for the right purposes as notified to consumers [10].

### **3.4. Ensuring the right to use essential services**

To ensure this right of consumers, businesses providing essential services should not interrupt the provision of essential services when unpaid without giving consumers or groups of consumers a reasonable opportunity to pay. Organizations should not stop providing collective services to punish all

<sup>4</sup>Clause 1, Article 6 of the 2010 LPCR.

<sup>5</sup>Clause 2, Article 6 of the 2010 LPCR.

consumers regardless of payment. In pricing and fees, whenever permitted, organization should provide subsidized rates to those in need, operate in a transparent manner by providing information regarding pricing and fees, expand the scope and provide services of the same quality and level to all groups of consumers without discrimination, manage any cuts or interruptions in supply in a manner that is reasonable, avoid discrimination against any group of consumers, and maintain and upgrade its systems to help prevent service disruptions.

**3.5. Ensuring good service performance, consumer support and complaint and dispute resolution**

Service, consumer support, and complaint or dispute resolution are organizational mechanisms used to address consumer needs after products and services have been sold or provided.

These arrangements include proper installation, warranties and guarantees, technical support related to usage, as well as terms of return, repair, and maintenance.

Products and services that do not provide satisfactory features due to omissions, failures, or misuse may lead to violations of consumer rights as well as a waste of money, resources, and time.

Suppliers of products and services can enhance consumer satisfaction and reduce complaints through the provision of high-quality products and services. They need to give clear advice to consumers on proper usage and request or remedy for feature failure. Suppliers can also monitor service effectiveness, after-sales support, and dispute resolution procedures through user surveys [11].

To realize those requirements, businesses need to take measures to prevent complaints by providing consumers, including those who purchase products via telemarketing, the ability to return products within a limited time frame or take other appropriate remedial measures as well as review complaints and improve complaint response practices. If

applicable, businesses need to provide warranties longer than the statutory warranty period and in accordance with the expected service life of the product as well as clearly inform consumers on how to access after-sales services and support like dispute resolution and compensation mechanisms. Businesses should provide a satisfactory and effective system of support and advice, provide maintenance and repair at reasonable prices and at appropriate locations, and provide information on the desired availability of replacement parts for the product and adopt dispute resolution, conflict resolution, and redress procedures based on national or international standards, free of charge or at minimal cost to consumers, and that do not require consumers to waive their rights to seek legal recourse.

This content is also recognized as one of the rights of consumers in the 2010 LCPR: “To lodge a complaint or denunciation or initiate or request a social organization to initiate a lawsuit to protect his/her rights under this Law and other relevant laws”<sup>6</sup>.

In practice, the process of reporting and processing consumer information with businesses has improved to be more convenient, simpler, and faster. This result, on the one hand, is due to the development of information technology that has made the application of contact methods more reasonable and convenient to business costs. On the other hand, it is also necessary to recognize the activities and the perception of businesses towards listening and resolving customer opinions. Referring back to the summary report of 13 enterprises shows the following: 100% of enterprises have issued policies to receive and handle consumer requests, 100% of enterprises have a specialized department in charge of receiving and settling complaints, 100% of enterprises built a database system of consumer complaints, and finally 10 out of 13 businesses apply a variety of methods to receive and exchange information with consumers (i.e., hotline, email, online chat, Facebook) [10].

<sup>6</sup>Clause 7, Article 8 of the 2010 CSR.

## **4. The advantages and limitations of the law on CSR in protecting the interests of consumers**

### ***4.1. The advantages of the law on the CSR in protecting the interests of consumers***

*Firstly*, the provisions of Vietnamese law recognize the basic principles of protecting consumer rights.

Article 4 of the 2010 LPCR affirms: “Protecting interests of consumers is the common responsibility of the State and the whole society. The rights of consumers are respected and protected under law. Consumer rights must be protected promptly, fairly, transparently and lawfully”. That is, consumer protection is not the job of a particular department, agencies, or certain entity, but a common responsibility of society as a whole. Unlike many other fields, consumer protection involves various individuals and organizations, so it is of great significance to affirm that this work is a common responsibility of the entire society. Each agency, mass organization, individual, organization, and consumer must have responsibilities in this work.

*Secondly*, the provisions of the law recognize the basic rights of consumers. Article 8 of the 2010 LPCR stipulates eight basic rights of consumers. On that basis, the law mentions the responsibilities of businesses trading in goods and services. Chapter II of the 2010 LPCR has specified the responsibilities of enterprises in providing information about goods and services, performance of a model contract, and implementation of general trading conditions. In addition, the responsibilities include providing proof of transactions, warranties for goods, components, and accessories, recovery of defective goods, and compensation for damage caused by defective goods. Ensuring the responsibility of enterprises is one of the most important factors for consumer interests to be guaranteed.

*Thirdly*, the responsibilities of organizations and individuals trading goods and services are

recognized. The 2010 LPCR introduced new and strict regulations on the responsibilities of business organizations and individuals to consumers.

The Law has new provisions that focus on the issue of liability for warranty and recall of defective goods, and compensation for damage caused by defects of goods to consumers. Accordingly, business organizations and individuals must fulfil their warranty obligations for the goods they provide. During the warranty period, providers must compensate consumers with similar goods for temporary use or propose another settlement method accepted by consumers, they must also bear the cost of repair and transportation of goods and components under warranty, etc. For defective goods, business organizations and individuals must make a public announcement on websites or mass media, then withdraw and report the results to the state management agency in charge of protecting consumer interests.

### ***4.2. The limitations of the law on the CSR in protecting the interests of consumers***

Besides these advantages, the current provisions of Vietnamese law on CSR in protecting the interests of consumers still has some limitations that need to be overcome.

*Firstly*, the regulations on CSR in protecting the interests of consumers are still largely formalistic and difficult to implement. The 2010 LPCR lists seven groups of rights that businesses must pay attention to when providing goods and services to consumers and consumers can use it to protect their rights when they are infringed. However, mechanisms to enforce these rights are not yet available or have not been effectively implemented. Therefore, it is still difficult to apply these provisions to protect consumer interests.

*Secondly*, the regulations on realization of the contract between enterprises and consumers are still general as there are no regulations binding

the responsibility of enterprises in the process of contract realization. Model contracts in some exclusive business areas, such as electricity, water, etc., have not yet had specific regulations to avoid consumers being restricted and disadvantaged in terms of benefits, especially when disputes arise.

*Thirdly*, on the warranty period, Article 21, Clause 2 of the 2010 LPCR stipulates: “When the goods trader replaces parts or accessories or change the goods, the warranty period for such parts, accessories or goods shall be counted from the time of replacing those parts or accessories or changing the goods”.

The above regulation only determines the time of applying the warranty, as there is no regulation to determine the warranty period for renewed parts, accessories, or goods. Many businesses, when replacing newly replaced parts and accessories, often do not announce a new and regulated warranty period, or often in a very short time. For example, in some cases, the warranty period of newly replaced parts and accessories would be considerably shortened when compared with the warranty period of old parts and accessories.

*Fourthly*, on the time limit for reporting the results of the recall of defective goods, Article 22, Clause 4 of the 2010 LPCR stipulates the responsibility to report the results of the recall of defective goods, specifically: “After completing the recall, report its results to a provincial-level state management agency in charge of consumer right protection of the locality in which defective goods are recalled or to the central state management agency in charge of consumer right protection when defective goods are recalled in 2 or more provinces”. In fact, there is no regulation on a time limit for enterprises to report recall results to competent authorities. That leads to the situation of determining the behaviour of not reporting, and the competent authority has no basis to define this behaviour.

## 5. Some suggestions to improve the law on CSR in protecting the interests of consumers

The 2010 LPCR has been implemented for more than 10 years. This is considered a specialized legal document that comprehensively regulates those activities related to the protection of consumer interests. In addition, many other relevant legal guidance documents are also continuously issued to create a complete and unified legal system governing relationships in this field of law. However, through the study of the law and its practical application, there are limitations and obstacles, as analysed above, that we would like to propose some changes related to regulations on CSR in protecting the interests of consumers, as follows:

*Firstly*, we suggest supplementing the provisions related to the contract for the consumption of goods and services.

In the 2010 LPCR, there is no clear regulation on the provision of service contracts, especially the contract of continuous service provision, which stipulates the conditions that consumers can terminate the contract as well as clearly define the responsibilities of service providers for consumers. The law also does not have specific regulations on the responsibilities of the management boards of high-rise buildings as well as the responsibilities of the construction units of civil works to ensure the best service quality for consumers.

In our opinion, the LPCR should stipulate principle issues related to contracts such as: contract interpretation (in favour of consumers), contract language (clear and easy to understand), content that is prohibited from being included in the contract (content that lose or limit the rights of consumers), invalid terms in the contract (e.g., terms contrary to the provisions of the law that are unfavourable to consumers), and the right to cancel the contract of the consumer in case the consumer realizes that the provisions do not reflect his will and may be detrimental to him. At the same



time, it is also necessary to pay attention to some specific types of contracts to which consumers are vulnerable, such as contracts for continuous service provision, contracts of merchants selling mobile goods, contracts for the supply of essential goods and services, and consumer credit, etc.

*Secondly*, it is necessary to supplement regulations on product liability and compensation for damage and losses caused by defective products.

Consumers are beneficiaries of various activities to protect their legitimate rights and interests, so when choosing products for themselves, it is necessary to have certain knowledge about the quality of products and goods in general. Currently, the responsibility of the manufacturer for their products has been stipulated in the law on product quality, and therefore cannot be directly regulated by the LPCR. In fact, consumers often have no intention to establish a direct legal relationship with manufacturers, so by the time that products and goods reach consumers, they have gone through many stages of the distribution system, especially imported goods. This will lead to the situation that the supplier of the product or goods is demanded to be responsible for the defect of the product that they did not create themselves. From here, the legal regulation of product liability arises whereby the manufacturer of the goods is liable to compensate the consumer for damage and loss caused by the defective product even as the consumer may not deal directly with the manufacturer. As a result, product liability is not a liability arising directly from a business-to-consumer relationship and therefore the liability regime for a breach of a civil contract, according to civil law, is not available to protect the interests of consumers. Therefore, it can be affirmed that, in the long term, in order to better protect the interests of consumers, improving the caution of manufacturers and traders, the issuance of regulations on product liability, and regulations on compensation for damage caused by defective products are necessary.

*Thirdly*, we suggest amending and supplementing a number of provisions on product warranty in several related documents.

In principle, an enterprise is obligated to provide a warranty for its goods and services to consumers for a certain period, called the warranty period, as agreed by consumers or as prescribed by law. However, the LPCR also needs to further stipulate the following: if during the warranty period, the consumer discovers that there is a defect in the goods or services covered by the warranty, the organization or individual that produces and trades such goods and services is obliged to either repair with no cost, replace the defective goods or services with new quality goods or services according to the standards and regulations of law, reduce prices, or refund after allowing consumers to return the commodity.

In addition, the provisions of the 2005 Commercial Law on warranty have contributed to protecting the legitimate interests of consumers as well as genuine businesses. Indeed, Article 49 of the Commercial Law provides:

*“1. Where goods are purchased and sold under warranty, the seller shall have to provide a warranty for such goods according to the agreed contents and duration.*

*2. The seller must fulfil the warranty obligation as soon as the practical situation permits.*

*3. The seller must bear all warranty expenses unless otherwise agreed”.*

However, the content of the above regulation has many problems that make it difficult for both consumers and businesses to implement, such as:

- The 2005 Commercial Law has no specific provisions on the rights of purchasers to claim the warranty and warranty obligations of the providers as well as responsibilities in case both parties do not have an agreement on the warranty in the contract. Thus, when such cases occur, the purchasers and providers must apply the relevant provisions of the civil law and the LPCR.

- The 2010 LPCR can only be applied to the case of warranty of goods related to the consumer who is the person who buys and uses the goods or services for personal consumption as well as living purposes of an individual, family, or organization. In the case that problems arise concerning the warranty of goods related to non-consumption and living purposes, consumers and businesses have no basis on which to solve.

- In addition, the provisions of Articles 446, 447, and 448 of the 2015 Civil Code on warranty obligations and the right to claim the warranty and repairs of objects during a warranty period are also not clear and consistent. In which, Article 447 stipulates: "If a purchaser discovers a defect in a purchased object during the warranty period, it has the right to require the seller to repair the object free of charge, or reduce its price, or replace it with another object, or it has the right to return the object in exchange for a refund". This means that if a difficult dispute occurs, the buyer can rely on Article 447 to ask the seller to return the money or exchange the goods. However, the seller can also invoke Article 448 of this civil Code or Article 49 of the 2005 Commercial Law to refuse this request of the purchasers.

Therefore, for clearer regulations that ensure the most optimal solution for both parties, it is necessary to amend and supplement Article 49 of the 2005 Commercial Law and provide clearer provisions on the warranty obligations of the manufacturer in order to clarify the rights, obligations, and responsibilities of the parties in the warranty of goods, warranty measures, and the process of implementation of warranty measures.

*Fourthly*, we suggest implementing a model contract.

Model contracts are prescribed in the LPCR 2010 and Decree No. 99/2011/ND-CP dated October 27, 2011. One of the most important conditions of the model contract and general transaction

conditions is: "A written contract with a consumer must use plain and understandable language, which is Vietnamese, unless otherwise agreed by involved parties or provided by law"<sup>7</sup>. However, in practice, many enterprises draft contracts that are often prepared with many general provisions and clauses that make it difficult for consumers to understand. The law also stipulates that, "when concluding a model contract with a consumer, a goods or service trader shall give a reasonable time for the consumer to study such contract"<sup>8</sup>. However, businesses often only provide contracts to consumers for a brief time before signing, so consumers do not have enough time to review and understand all the terms of the contract. Therefore, it is necessary to further stipulate (i) the specific and clear terms and conditions of the model contract and (ii) the specific time the enterprise should allow the model contract to be with the consumer before signing.

*Fifthly*, we suggest adding a number of issues that have arisen in practice, but have not been regulated by law.

### **5.1. Business use of a technology platform**

Along with the emergence of the internet, a technology-based business model has appeared that connects transaction participants with each other and conducts value-creating interactions anytime and anywhere. Vietnam promulgated two laws, namely, the Law on E-transactions in 2005 and the Law on Information Technology in 2006, which are the legal bases for the recognition of electronic transactions including e-commerce. To concretize these documents, on May 16, 2013, the Government issued Decree No. 52/2013/ND-CP to regulate e-commerce relations. This document includes a range of important rules of principle and specific guiding regulations on standards for signing and realize e-commerce contracts.

<sup>7</sup>Clause 1, Article 7 of Decree 99/2011/ND-CP dated October 27, 2011.

<sup>8</sup>Article 17 LPCR 2010.

In Vietnam, a number of businesses using a technology platform in the transportation industry appeared like Uber in June 2014, Grab in February 2014, and Vietnamese enterprises such as Go-Viet born in July 2018, Be in December 2018, and Airbnb, Agoda, and Traveloka in the travel industry.

For the implementation of a business model in the form of a technology platform, there are several concerns such as the issue of the publicity and transparency about the operating mechanism, the security of user information, pricing methods, and legal responsibilities of platforms [10]. From that, it can be seen that protecting the interests of consumers in the platform economy is an urgent issue, especially in the context of the specialized legal material that has not yet been adjusted and the management of the operation of the business model according to the technology platform. Therefore, the issue of protecting the interests of consumers in e-commerce has not been included in legislation.

### ***5.2. Regulations on responsibilities and methods of commercial dispute resolution of e-transactions***

Article 26, Clause 3, Section c of the Government's Decree No. 52/2013/ND-CP, on e-commerce stipulates: "In case the sellers directly post information about their goods and services on e-commerce websites, the traders or organizations providing e-commerce services and the traders or organizations providing infrastructure are not the third party providing information as prescribed by the LPCR".

The above regulation currently creates the problem of binding the responsibility of traders and organizations providing e-commerce services with traders and organizations providing infrastructure in ensuring information provided on websites for e-commerce platforms like Lazada.vn, Shopee.vn, etc. However, the provisions of the 2005 Law on Electronic Transactions, Decree No. 52/2013/ND-

CP, and Decree No. 22/2017/ND-CP are general in nature and there are no specific regulations that are suitable with the flexible and fast-moving characteristics of e-commerce transactions. The current law does not have clear specific provisions on the application of online dispute resolution (ODR) methods to resolve e-commerce disputes. Chapter VI of Decree No. 52/2013/ND-CP also provides only principled regulations on e-commerce dispute settlement, and there are no specific regulations on the mechanism to conduct ODR. Decree No. 22/2017/ND-CP of the Government on commercial mediation is one of the legal documents that regulate the content of online commercial mediation, initially facilitating the formation of dispute settlement and online mortgages. Contents such as the scope of dispute using the ODR method and the order, procedures, and legal value of dispute settlement decisions have not yet been specified and there are no guidelines, so dispute cases cannot be handled [10]. This leads to legitimate rights and interests of consumers being difficult to protect when participating in online commercial relations.

## **6. Conclusions**

Following the trend of the Vietnamese economy integrating more and more deeply with the world, the protection of consumer interests, as well as the promotion of the responsibility of enterprises in ensuring the interests of consumers, are posed as an indispensable and increasingly important requirement. Vietnam has gradually tightened the management of consumer rights protection in all aspects of the economy, and gradually build and perfect the legal system of consumer rights protection. Up to now, the legal system of Vietnam has met the basic requirements of consumer protection. The provisions of Vietnamese law on the principles of protecting interests and rights of consumers, as well as obligations and responsibilities of enterprises in protecting consumer interests, are quite similar to the laws

of many developed countries around the world, which are basically suitable and compatible with the requirements laid out in the current situation. These are remarkable efforts of the legislators in Vietnam over the past 10 years.

However, upon analysis of the Vietnamese legal system on protecting the interests of consumers, we still find there are some shortcomings and limitations that are not completely suitable nor fully meet the requirements of current economic development trends. On the other hand, due to various reasons, the systems of law enforcement agencies used to protect the interests of consumers in Vietnam has not been very effective as the number of undetected violations of enterprises remains high. The handling of acts of violation of the interests of consumers has not yet achieved desired results. Therefore, we need to continue to improve the legal system and enforcement mechanisms to protect the interests of consumers both to meet the requirements of the integration process and to serve the development of the country.

### CRediT author statement

Duy Phuong Nguyen: Conceptualisation, Methodology, Writing - Original draft preparation, Editing; Duy Thanh Nguyen: Conceptualisation, Reviewing and Editing.

### COMPETING INTERESTS

The authors declare that there is no conflict of interest regarding the publication of this article.

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