

New Law on the Protection of Consumer Rights

Introduction

On 20 June 2023, the National Assembly of Vietnam passed the new Law on the Protection of Consumer Rights ("**LPCR**"). The LPCR will replace the currently effective Law on the Protection of Consumer Rights that was enacted in 2010. It will take effect from 1 July 2024.

Key Features

Set out below set is a high-level summary of the proposed provisions prescribed by the LPCR.

1. Extraterritorial Scope

The LPCR broadens the application of the law to include social organisations participating in protecting consumers' interests. The LCPR is clear that it has extraterritorial effect, by extending its governing scope to both domestic and foreign entities engaged in consumer protection activities.

2. Protection of Vulnerable Consumers

The LPCR introduces the concept of "vulnerable consumers" which includes, among others, the elderly, children, persons with disabilities and ethnic minorities. There are additional responsibilities that need to be observed when transacting with vulnerable consumers, the need to prioritise the handling of legal claims, practices against discrimination, and establishment of internal procedures for handling complaints.

3. Additional Scope of Prohibited Acts

The LCPR introduces a much more expansive scope of prohibited acts in the field of consumer protection. For example, traders are prohibited from failing to inform and make publicly available to their customers any sponsorship given to influencers in any means or form to use image, advice or recommendation of such influencers. Traders are also prohibited from preventing consumers from inspecting products, goods and services and requesting consumers to buy a product, good or service as a prerequisite for concluding a contract against their will.

4. Protection of Consumer Information

The LPCR introduces expanded provisions to safeguard consumer information. Traders that collect and use consumer information must establish and publicly announce mechanisms for data protection. It requires consent from consumers for the collection and use of their information, and specifically imposes a need for opt-in consent.

Consumer information is not only limited to personal information, but also information regarding their process of buying and using products, goods and services and other information related to transactions between the consumer and the trader.

5. Registration of Template Contracts

Traders offering products, goods and/or services on a regular and continuous basis to a wide range and significant number of consumers (and which consequently have direct and long-term impact on the consumers) must register their template contracts and general terms and conditions with the state authority prior to contract execution with the customers.

The Prime Minister will issue a list of products and services subject to this registration obligation. This is not a new obligation, as the existing law also includes specific template contract registration requirements for certain goods and services (e.g. certain telecoms services). However, this suggests that a new list will be issued, and it remains to be seen the specific types of services and goods that will be included.

6. Product Recall

The LPCR provides more detailed product recall provisions. Defective products are now classified into two groups: Group A, which causes damage to the life and health of consumers; and Group B, which causes damage to property of consumers. Goods that fall under both categories are classified as Group A. Group A products are subject to prompt market recall.

Traders are required to carry out recalls when their goods are found to be defective, and notify relevant authorities before and after a recall. If there are multiple traders (including, among others, manufacturers, importers, commercial intermediaries and direct suppliers) that cause harm to the consumers, these traders will be jointly liable for compensation. Such traders are also required to publicly announce the defective products and the recall of such goods for at least five consecutive issues or for five consecutive days on radio, television, print, and electronic newspapers at the central government or locality where the defective goods are circulated.

7. Continuous Supply of Services

The LCPR regulates the concept of a "continuous supply of services", i.e. a supply of services which is provided for a term of three months or more or for an indefinite term.

Traders that provide such types of services are required to have a legal representative or authorised representative in Vietnam. The law also prescribes specific content requirements of contracts that are signed for the provision of such services, and caters for a right of consumers to unilaterally terminate these services without cause at any time.

8. Simplified Civil Procedures for Small Claims

Civil cases on protecting consumers' interests with a transaction value of less than VND100 million (~US\$4,255) can be settled through a simplified procedure provided under the Vietnam's Civil Procedure Code.

9. Online Transactions

The LCPR introduces specific provisions on responsibilities of traders in online transactions, including in particular the manner in which transactions should be performed. It prescribes transparency requirements as to the products and the goods and services that are sold and supplied – especially for those that operate "intermediary digital platforms".

10. Consumer Contracts

The LCPR provides more detailed provisions on the interpretation and content requirements of consumer contracts. For example, it expands the scope of invalid contents in such contracts.

11. Role of Social Organisations

The LCPR prescribes a much more active participation by "social organisations" in protecting consumer rights. These organisations have broader rights, including an express right to represent consumers in lawsuits and pursue public interest litigation.

Please feel free to reach out to our contact partners if you would like to find out more or require assistance in relation to this development.

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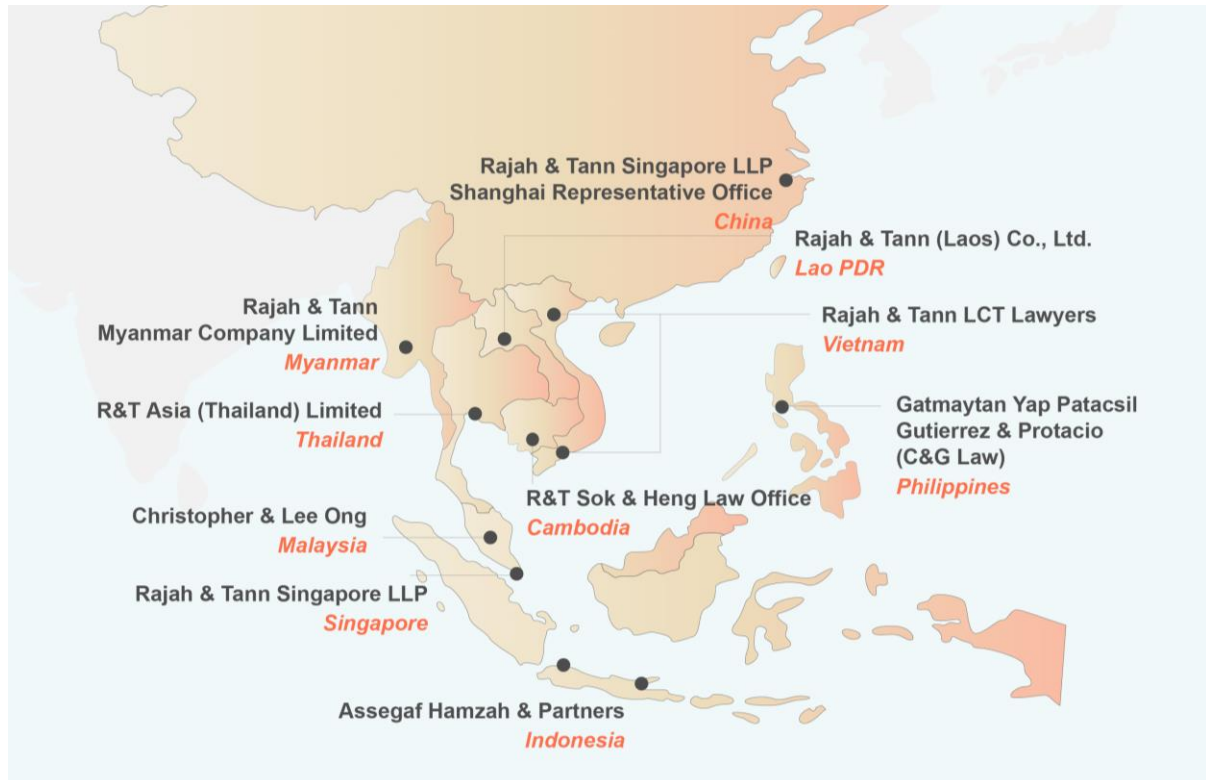
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