

# Perfection of Law on E-commerce in Vietnam in Context of Industrial Revolution 4.0

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**Abstract:** In the context of the Industrial Revolution 4.0 (also known as Industry 4.0 or Fourth Industrial Revolution) when innovative initiatives and inventions are constantly emerging, rapidly changing the expression and existence of e-commerce relationships, it is necessary to have solutions to improve the effectiveness of e-commerce law enforcement. The current law on e-commerce activities in Vietnam needs to be codified to form a legal framework that is consistent, uniform, scientific, and effective when applied. In addition, a separate law specialising in e-commerce activities needs to be issued.

**Keywords:** E-commerce, industrial revolution 4.0, law, Vietnam.

**Subject classification:** Jurisprudence

## 1. Introduction

The Industrial Revolution 4.0 has made a big change in working methods and the way transactions are conducted in an integrated economy in Vietnam today. The advent of artificial intelligence (AI), Internet of Things (IoT), and Big Data has forced many industries and businesses to make changes and improvements, to move with the times and adapt to the speed of information technology development in the digital era. The impact of technology on law is no exception. The advent of e-Government and a series of innovations in data storage and use in the fields of business, population, land, healthcare, education, insurance, security, manufacturing, etc., have made big breakthroughs, replacing previous traditional ways of working.

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E-commerce (electronic commerce) refers to the electronic process of purchasing and selling goods, services, investment, trade promotions, and other such activities to make profits, via the internet, mobile telecommunications and other open networks.

In actual production and business activities, e-commerce is defined based on formal manifestations associated with each specific field and job:

From a business process perspective: *e-commerce includes activities directly supported by networking.*

Accessibility in the business environment: *e-commerce is an environment where products, services, and information can be bought and sold on the internet. Products can be tangible or intangible.*

From the perspective of communication: *e-commerce is the ability to distribute products, services, information, or payments through a network system such as the internet or the World Wide Web. In practice, business transactions occur either as business-to-business (B2B), business-to-consumer (B2C), consumer-to-consumer (C2C), or consumer-to-business (C2B).*

The above definitions are approached only from a certain perspective, hence, they do not fully reflect the nature of e-commerce. In scientific research, thanks to an overall and comprehensive recognition and evaluation, thorough and complete definitions of e-commerce have been developed. Clause 1, Article 3 of Decree No.52/2013/ND-CP of the Government on E-commerce has provided a definition: *“e-commerce activities are the conduct of part or the whole process of commercial activities by electronic means connected to the internet, mobile telecommunications networks or other open networks.”* (Government, 2013).

Vietnamese law provides the definition of e-commerce based on the existence and development of this type of activity in practice. The definition is both specific and comprehensive, making it easy to imagine e-commerce. In essence, e-commerce activities are commercial activities with full associated characteristics in general: entities engaged in activities on a regular continuous basis, for profit purposes, mainly by traders. In addition, e-commerce activities have a special nature, which differs to traditional commercial ones carried out on a digital technology platform. Commercial activities need to be understood in a broad sense, not just relating to the buying and selling of goods. According to the Commercial Law of Vietnam: *“commercial activities are activities for profit-making purposes, including buying and selling of goods, providing services, investing, promoting trade and other activities to make a profit”*<sup>1</sup> (National Assembly, 2005). The Industrial Revolution 4.0 developed from the concept of “Industrie 4.0” mentioned in a 2013 German government report. It can be described as the introduction of a series of new technologies, which combine all knowledge in the fields of physics, digital technology, and biology, affecting all economies and sectors, including economic and industrial.

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<sup>1</sup> Clause 1, Article 3 of the Commercial Law 2005.

At the heart of this revolution are emerging technological breakthroughs in areas such as artificial intelligence, robotics, the Internet of Things, self-driving vehicles, 3D printing, and nano technology.

In Vietnam today, Industrial Revolution 4.0 has brought about many changes in people's lives. It transforms almost all of our habits and replaces many methods of previous labour, production activities, etc. In turn, this "smart" generation helps society in many aspects, gradually becoming a key tool and potential, and the driving force for future development.

Industrial Revolution 4.0 plays a very important and significant role, being the best way to connect individuals and organisations in today.

Only with specialised electronic devices such as phones, computers, etc., with internet connectivity, does the process of accessing, retrieving, and updating information become simple and easy. It can be said that Industry 4.0 is like a convenient and preeminent "bridge" allowing individuals and organisations to access information quickly and capture the most concise detail as possible with little time and effort unlike before (Doãn Hồng Nhung & Trần Văn Quỳnh, 2021).

In the context of Industrial Revolution 4.0 when innovative initiatives and inventions are continuously emerging, rapidly changing the expression and existence of e-commerce relationships, suitable solutions are needed to improve the effectiveness of e-commerce law enforcement. In this paper, the author presents some common problems and solutions to build and perfect the e-commerce legal system in the context of the Industrial Revolution 4.0.

## **2. Current legal status of e-commerce in Vietnam**

The trend of economic and commercial development has seen enormous growth in information technology and diversity of commercial activities. In the national e-commerce development master plan for the period 2021-2025 (Prime Minister, 2020), the prime minister's direction is very clear - that perfecting the legal framework is one of the overarching goals by 2025.

Multiple legal gaps still exist in current Vietnamese law regarding e-commerce dispute resolution. These are reflected in the following aspects:

In trade activities, it is necessary for buyers and sellers to meet and carry out exchange. However, the impact of the Covid-19 epidemic shows the immense and rapidly growing demand for e-commerce due to limited face-to-face interaction. E-commerce has had the opportunity to develop and grow faster than ever. Strong rapid development in both quantity and quality of digital technology and technology services has emerged. The previous legal provisions in commercial business fail to regulate the newly arising commercial situations of contracting, ordering, buying and selling specifically mentioned in this paper. New disputes arising when contracting and performing electronic transactions require a separate dispute resolution process for social relations based on the same digital technology platform. The Law

on E-Transactions 2005 and Decree No.52/2013/ND-CP do not make separate provisions for dispute settlement in e-commerce. Instead, the same methods applied in resolving civil and commercial disputes will be used, such as negotiation, conciliation, arbitration, and litigation. The traditional dispute resolution methods mentioned above mostly require face-to-face contact between the disputing parties with the dispute settler, sometimes proving costly in time and money. This is not feasible with the rapid development of e-commerce, when the number of disputes is rising, requiring more flexible dispute resolution methods.

To solve this problem, online dispute resolution (ODR) can be applied in Vietnam in addition to traditional dispute resolution methods. According to the American Bar Association, “ODR is a broad term that encompasses many forms of alternative dispute resolution (“ADR”) that incorporate the use of the internet, websites, email communications, streaming media and other information technology as part of the dispute resolution process. Parties may never meet face-to-face when participating in ODR. Rather, they might communicate solely online.” (ABA, 2002).

ODR will be a useful solution, facilitating a quick and cost effective resolution between the disputing parties, and at the same time promoting greater e-commerce development in Vietnam. Currently, in some countries in the developed world, ODR has gone beyond the scope of e-commerce disputes, and it is also used in other scenarios. So, ODR is a public face-to-face digital space in which parties can convene to resolve their issues. The design and implementation of court-related ODR programmes must not impair the process of or access to justice for programme users. (ODR, *What is ODR?*).

In Vietnam, if ODR is widely applied it can reduce pressure on the courts. It can help disputing parties solve problems about the jurisdiction of the Court, choosing applicable laws and location. In fact, when it comes to dispute resolution, issues will be resolved online. ODR is a simple, transparent, fair system aimed at bringing justice to dispute resolution.

To do this, Vietnam needs international cooperation, and adopt the ODR model used by other countries. At the same time, it is necessary to improve legal and policy frameworks on e-commerce dispute settlement via ODR, to improve and enhance the information technology infrastructure, and human resources in accordance with Vietnam’s socio-economic situation.

Article 186 of the Civil Procedure Code 2015 stipulates that: “Agencies, organisations and individuals have the right to initiate lawsuits themselves or through their lawful representatives at competent courts to request protection of their legitimate rights and interests” (National Assembly, 2015). In order for the petition to be accepted, the plaintiff must actively collect and submit evidence to the Court and prove that his/her claim has grounds and is lawful.

The Law on Electronic Transactions 2005 and the Civil Procedure Code 2015 recognise the legal value of electronic evidence through a number of regulations. Electronic data is the source of evidence. Electronic data messages are expressed in the form of electronic data exchange, electronic documents, electronic mails, telegrams, faxes, and such like in accordance with the law on electronic transactions. However, the Civil Procedure Code

2015 does not stipulate specific regulations on the process of collecting electronic evidence, or the basis for verifying the accuracy of electronic data. Therefore, the collection and evaluation of evidence, and determination of the legitimacy of electronic evidence is not easy in practice. The current law also does not provide a specific regulation to guide procedures in verifying the legitimacy of electronic evidence in a language other than Vietnamese. For electronic data issued in a foreign language to be considered as a source of evidence, that document must be notarised or authenticated. This is because, according to the provisions of Clause 3, Article 96 of the Civil Procedure Code 2015: “The involved parties hand over to the Court documents and evidence in ethnic minority languages or a foreign language, and they must be accompanied by a translation into Vietnamese, which is notarised or legally authenticated.” (National Assembly, 2015).

A commercial contract that needs notarising must be signed by traditional methods. For an e-commerce contract, where the parties to the contract complete exchange, negotiate the contractual terms and sign it remotely via electronic means, the question arises that where the parties request notarisation, can notaries public do their job and if so how? This is something that the current notarisation law has not addressed (People’s Court of Binh Duong, 2019; Duong Sao, 2021).

In the process of performing commercial agreements and e-commerce transactions, issues to be studied include how to limit violations of the law on e-transactions, and which precautions need to be taken to limit risks in transactions. E-commerce has become a representative business method for the knowledge economy. In recent years, e-commerce in Vietnam has grown tremendously with big names such as Tiki, Shopee, Lazada, Sendo, Vntrip, Luxstayeets, and so on. In addition, challenges and risks in terms of safety and security in e-commerce still exist such as: security issues for information technology systems, difficulties in protecting customer data versus the risk of being attacked or stolen by hackers (Trịnh Minh Tâm, 2021a, pp.2-4).

### *2.1. Legal framework for e-commerce*

*Firstly*, to expand the space for e-commerce to develop the principle that people can do what is legal: the highest legal document directly regulating e-commerce activities at present is Decree No.52/2013/ND-CP on e-commerce. This provides regulations on forms of e-commerce activities but it only covers activities carried out on websites. The Ministry of Industry and Trade has issued Circular No.59/2015/TT-BCT, whereby owners of e-commerce applications on mobile devices must also comply with all legal provisions, as in the case of e-commerce websites. E-commerce exchanges often apply a feedback mechanism for buyers to feedback on the quality of products and services; this in turn guides and influences others in making a decision (Xuân Anh, 2018).

*Secondly*, to ensure the safety of transactions for parties in e-commerce: for consumers, before performing any e-commerce transaction, they must carefully research about the

product as much as possible. With more information, consumers (Industry and Trade Magazine, 2009) can easily choose the product they need and minimise potential disputes that could arise later (Xuân Anh, 2018). Traders and organisations that collect and use personal customer data on e-commerce websites (information collecting units) must obtain prior consent from the particular individuals (information owners). The information collecting unit must establish a mechanism for the information owner to express his/her explicit consent, through online functions via the website, e-mails, messaging, or other methods as agreed between the two parties. The information collecting unit must have its own mechanism for the information owner to choose whether or not to allow their personal data to be used in the following cases: sharing, disclosing, transferring information to a third party; using personal information to send advertisements, product recommendations and other commercial information. However, the information collecting unit does not need the prior consent of the information owner in the following cases: collecting personal information that has been publicly disclosed on e-commerce websites, collecting personal information to enter into or enact contracts for buying and selling goods and services, collecting personal information to calculate prices and charges for the use of information, products and services in the network environment.

Information collecting units must ensure the safety and security of personal information they collect and store, and prevent the following acts: theft of or unauthorised access to information and its unauthorised use, and unauthorised alteration or destruction of information. The information collecting unit must have a mechanism in place to receive and resolve consumer complaints related to the misuse of personal information or the violation of reported scope. Depending on the nature and seriousness of the violation, they will be administratively sanctioned in accordance with the law on handling of administrative violations (Bùi Thị Quỳnh Trang, 2020).

According to a report by the Department of E-commerce and Digital Economy under the Ministry of Industry and Trade, the e-commerce market in Vietnam reached USD 11.8 billion, accounting for 5.5% of the total retail sales of consumer goods across the country. In the past two years, Covid-19 seriously impacted on the growth rate of many industries, professions, and sectors on a global scale. E-commerce in Vietnam is not only in line with the current trend but is also experiencing an outstanding growth, due to the fact that Vietnam has done a better job of controlling Covid-19 than many other countries. Early forms of contract by electronic means such as telegraph, telex, facsimile, or data message (information created, sent, received, and stored electronically), which are admitted to have valuable legal value equivalent to e-commerce documents<sup>2</sup>, are a globally connected method of electronic communication in most areas of life (Berners-Lee, T., 2000). For the development of e-commerce in Vietnam, *an urgent need is to develop and to improve a system of laws to suit the development of e-commerce, which*

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<sup>2</sup> Clause 5, Clause 15, Article 3 and Article 15 of the Commercial Law 2005.

*has been and will take place globally.* Step by step, formulating, promulgating, and perfecting an e-commerce law regulating the conditions for market entry, e-commerce activities, and mechanisms to ensure law enforcement and state management of e-commerce in Vietnam. Currently, more than 70% of Vietnam's population can access the internet, of which 53% use e-wallets and make online payments for their online purchases. In particular, the two major cities of Hanoi and Hồ Chí Minh account for 70% of the total transactions on e-commerce platforms (OCS, 2021). At least five of the 10 largest e-commerce exchanges in Southeast Asia today belong to Vietnam. Hence, it can be said that Vietnam's e-commerce sector has a great advantage in the region, with an extremely promising growth potential.

In the period 2020 to 2025, Vietnam needs to have an open policy to strongly attract foreign investment in both trading and technology platforms in e-commerce. Free trade agreements such as CPTPP and EVFTA, together with the commitment to open the service market and investment in the WTO, initially create a favourable legal framework for attracting foreign investment to the e-commerce digital platform. Vietnam promulgated the Law on Information Technology in 2006, the Law on Telecommunications 2009, the Criminal Code 2015, the Law on Protection of Consumer Rights 2010, the Law on Advertising 2018, the Law on Investment 2020, and the Law of Enterprises 2020, which provide for domain name registration and information security, consumer protection, dispute resolution and dealing with e-commerce violations. Clause 4, Article 76 of Decree No.52/2013/ND-CP stipulates: *“dispute settlement must be through negotiation between the parties, conciliation, arbitration or at court in accordance with current procedures and regulations on dispute resolution”* (Government, 2013).

## *2.2. Technical requirements for the development of legal documents for e-commerce*

Directive No.30-CT/TW of the CPV's Secretariat on strengthening the Party's leadership and management responsibility of the State for the protection of consumers' interests has a number of requirements as follows:

- The legal framework must ensure the participation of business models that apply technology;
- The legal framework must ensure predictability requirements for the development and penetration of e-commerce;
- E-commerce must be consistent with the specific requirements;
- In commercial activities, data messages that satisfy technical conditions and standards as prescribed by law are recognised as having the same legal value as text documents. It is necessary to perfect the legal framework in areas such as economic, commercial, banking, and securities;
- Electronic forms of information carry the same legal value as text documents when meeting the following requirements: (1) information storage capacity whereby information can be kept and referenced; (2) ensuring the authenticity and integrity of information;

- There should be separate legal regulations for the management of social networks, websites, and e-commerce trading floors;
- E-commerce development must take account of the consumers' interests;
- Vietnam's e-commerce law must ensure compatibility with international law;
- In the course of e-commerce law development in Vietnam, efforts should be made to regularly review the legal framework and policies on e-commerce against commitments in FTAs, especially new generation FTAs (Lê Thị Hoài Thu, 2021; Nguyễn Ngọc Hà, 2021; Nguyễn Vinh Hưng, 2020).

### *2.3. Current status of legal corridor regulating e-commerce activities*

#### *2.3.1. Regarding sanctioning of administrative violations in e-commerce*

Groups of violations in e-commerce specified from Articles 62 to 66 of Decree No. 98/2020/ND-CP include: violations on setting up e-commerce websites or e-commerce applications on mobile platforms (referred to as mobile applications for short); violation of information and transactions on e-commerce websites or mobile applications; acts that violate the provision of e-commerce services; violation of the protection of personal information in e-commerce activities; and acts that violate evaluation, monitoring, and authentication activities in e-commerce. In general, the highest fine that can be imposed for e-commerce violations is VND 50 million. Note that this is applicable to administrative violations committed by individuals. Where an administrative violation is committed by an organisation, the fine is double that imposed on individuals (Government, 2020).

Regulations on sanctioning administrative violations in e-commerce have some limitations such as the fine is not enough of a deterrent, and remedial measures for violations related to e-commerce websites.

In addition to being fined, violations related to e-commerce websites may also be subject to additional sanctions. These include: the suspension of operations for six to 12 months and remedial measures of forced revocation of the domain name “.vn” of the e-commerce website in question. Specifically, paragraphs c, d, đ Clause 4, Clause 5, Clause 6, and Article 62 of Decree No.98/2020/ND-CP stipulate: *“A fine of between VND 20 and 30 million shall be applied for the following acts: deploying and providing e-commerce services inconsistently with the registration dossier; committing fraud or providing false information when registering an e-commerce service provision website or e-commerce service application; forging registration information on websites providing e-commerce services or e-commerce service applications. Additional sanctions shall include suspension of e-commerce activities from six to 12 months for repeated violations or recidivism. Remedial measures shall be forced revocation of domain name of “.vn” of the e-commerce website in question”* (Government, 2020).

Two of the most commonly used domain names are “.com” and “.vn”. In particular, the domain name “.com” is a widely used around the world. The domain name “.vn” is the national domain name of Vietnam and is recommended for domestic businesses. In addition, other domain names include “.net”, “.store”, “.asia”, and so on (Trần Đình Thuận, 2021).

### 2.3.2. The importance of electronic signatures in e-commerce business

When a handwritten signature is required in an e-commerce situation it can be in the form of an electronic signature. Accordingly, such signatures must meet safety requirements and express the clear will of the parties involved about the information contained in the electronic documents. At the same time, it is necessary to be aware of the nature of the signature in verifying information in the document, including identification of the entity participating in the transaction, and expression of the entity's acceptance of the information.

The government has issued two important legal documents: Decree No.130/2018/ND-CP detailing the Law on E-transactions regarding digital signatures and digital signature certification services, and Decree No.119/2018/ND-CP regulating electronic invoices for selling goods and providing services, etc. (Ministry of Industry and Trade, 2021). Electronic signatures are mainly used in the banking sector, while electronic transactions are very diverse. Hence, it is necessary to legally improve electronic signatures in other commercial transactions enabling them to be applied more commonly in commercial transactions. In particular, it is important to develop and perfect standards for information exchange in commercial transactions for QR codes, barcodes, and NFC. Elements of commercial transactions through social networks and e-commerce trading floors differ greatly in terms of: concept and nature, data and postings, online ordering functions, commercial support function, the function of introducing traders and the function of buying and selling products, goods, services (VCCI, 2021), and technologies serving the identification and authentication of users in e-commerce activities. This also includes any form of business transaction in which the parties interact electronically, through websites or via application software instead of direct physical exchange and contact” (Gupta, A., 2014).

- Decree No.85/2021/ND-CP amends and supplements a number of articles in Decree No.52/2013/ND-CP. The former adds new regulations on entities of e-commerce activities including: (1) supplementing entities of e-commerce activities which are logistics service providers; (2) regulations on the responsibility of providing information about the seller's goods and services; (3) mandatory announcement of goods inspection policy on e-commerce websites; (4) considering using social networks such as Facebook and Instagram as websites for e-commerce buying and selling activities; (5) adding responsibilities of traders and organisations who/which provide e-commerce trading floors; (6) simplifying registration procedures for setting up an e-commerce website, e.g. consider submitting only of a copy of the business registration certificate; (7) detailed regulations on registration procedures for authentication of electronic contracts; and (8) supplementing regulations on e-commerce activities of foreign traders and organisations.

### 2.3.3. *Electronic contracts and their legal value*

Perfecting e-contracts and their legal value have also been recognised in the Law on Electronic Transactions 2005. This is compatible with the provisions of the Civil Code 2015 and the Commercial Law 2005 on contracts of buying and selling goods, of service provisions, and of buying and selling international services entered into by electronic means. This creates an additional obligation to recognise the legal value of contracts related to the buying and selling international services by electronic means. It is necessary to expand the space for e-commerce to develop the principle that people undertake whatever is lawful.

## 3. Orientation to perfect the law on e-commerce

*Firstly*, there is an urgency to bring in regulations on customs procedures for goods imported and exported via e-commerce to simplify clearance procedures and reduce the quantity of goods that need to be inspected. It is also necessary to consider establishing regulations on customs control of goods based on their value so that low value items are exempt from inspection, (ii) it is necessary to issue regulations on the separate invoice regime for goods imported via e-commerce instead of applying the system imposed on normal imported goods. In addition, a new form of logistics called "e-logistics" that has emerged and developed in Vietnam a few years ago, through logistics companies such as DH and UPS, also now requires legal adjustments (Trình Minh Tâm, 2021b).

*Secondly*, it is important to perfect the e-commerce law to bring in favourable conditions for businesses to use e-invoices, perfecting the mechanism and enhancing tax management efficiency. The government has set a target to develop the size of the e-commerce market by 2025 so that 55% of the population shops online, with an average spend of 600 USD/person/year; and to increase B2C e-commerce sales (for both online consumer goods and services) by 25% annually, reaching USD 35 billion, accounting for 10% of the total retail sales of consumer goods and services in Vietnam (Prime Minister, 2020). In e-commerce, typically its application in the sharing economy model, the issue of protecting consumers' interests has experienced a fundamental change due to the explosion of services provided by non professionals.

*Thirdly*, in e-commerce transactions, consumer confidence is based on successful transactions (social rating), while the quality management system for products and services based on interaction and assessment on social networks, and social ratings will gradually replace the State's centralised quality management system (Bùi Nguyễn Khánh, 2019). The World Trade Organization (WTO) principles of international trade are specified in the General Agreement on Tariffs and Trade (GATT), the Agreement on Trade-Related Aspect of Intellectual Property Rights (TRIPs), or trade provisions in the Trans-Pacific Partnership (TPP), European and Vietnam Free Trade Agreement (EVFTA), ASEAN Framework

Agreement on Services (AFAS), ASEAN Trade in Goods Agreement (ATIGA) and other multilateral and bilateral agreements.

*Fourthly*, it is necessary to ensure transaction safety for parties in e-commerce. Principles of creating (to promote) an increasingly fair competitive environment in order to limit the negative impact of unfair competition measures such as dumping, subsidies, or other protectionist measures. Application of commercial practices is one of the specific principles of Commercial Law, used as an additional tool in the settlement of commercial disputes<sup>3</sup>. Commercial practice has always been recognised by international commercial law as an important source of law, reflected in Incoterms 2000, UCP 500, and so on. Thus, commercial practices according to this principle do not apply only to Vietnam but also international trade practices (Nguyễn Như Phát & Bùi Nguyên Khánh, 2008). State management agencies need to have strict regulations and sanctions so that e-commerce trading floor owners and transaction parties are forced to uphold the transparency of information and the responsibility in the performance of obligations (Phan Thị Thanh Thủy, 2021).

*Fifthly*, in Vietnam, popular e-commerce transactions are focused on the first three models of B2B, B2C, and C2C (ADC, *Typical Types of E-commerce*). B2C always goes hand in hand with online dispute resolution (ODR) (Phan Thị Thanh Thủy, 2016). There should be regulations on the order of online dispute resolution for wrangles arising from current e-commerce transactions. In addition, there is currently a lack of specific regulations on consumer protection in e-commerce activities.

#### **4. Some solutions to perfect the law on e-commerce**

##### *4.1. Building a scientific and well-aligned legal corridor*

It is necessary to add more detailed specific instructions to conclude e-commerce contracts between parties. Step by step it is possible to research and apply electronic notarisations for various types of e-commerce contracts to ensure authenticity, speed, timeliness, prevention of risks, and to build strong enough sanctions versus violations<sup>4</sup>. (Government, 2013).

- It is necessary to add more legal regulations to make information transparent about goods and services in e-commerce and to strengthen the responsibility of trading floor owners as well as agencies managing e-commerce activities. To prevent some entities from

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<sup>3</sup> See also: Article 18, paragraph 3, of the Vienna Convention 1980 on the international purchase and sale of goods. Vietnam is not a member yet.

<sup>4</sup> See Section 2 of Decree No.52/2013/ND-CP on E-commerce dated 16 May 2013.

taking advantage of selling goods of unknown origin, counterfeit and imitation products, and those infringing intellectual property right etc., causing distress to consumers<sup>5</sup>.

- In order to determine the reliability of an electronic signature, the law also needs to stipulate a competent intermediary agency which can certify its authenticity and ensure the reliability of such a signature. Legitimacy in e-commerce also requires confidentiality and respect for privacy. Individuals have the right to expect the confidentiality of personal information when performing e-commerce transactions.

#### *4.2. Promulgating sanctions in concluding and performing e-commerce contracts*

It is necessary to study and issue sanctions when "e-commerce fraud" is committed to detect the abusers illegally collecting, buying, and selling personal data. This is a common activity, posing challenges to national data security, business reputations, and people's legitimate rights and interests. It is necessary to stop trading personal data activities with a serious nature, large extent and quantity (Hoàng Phan, 2021). Law enforcement should respect the principle of equality before the law of traders in commercial activities. The WTO has set out a number of basic principles that guide the multi-party trading system. For example, the Most Favoured Nation (MFN) principle stipulates that countries shall not discriminate against their trading partners<sup>6</sup>, the principle of national treatment (NT) provides for equal treatment of foreign and domestic products<sup>7</sup>.

#### *4.3. Solutions to improve the efficiency of e-commerce law enforcement*

It is necessary to raise awareness and legal consciousness of entities in e-commerce relations.

It is important to propagate the observance of e-commerce laws by entities participating in e-commerce relations.

It is obligatory to control, inspect, and detect those entities that openly sell fake and counterfeit goods on websites. For online sales, entities often use virtual Facebook accounts or rent other people's to livestream sales, making it difficult for investigators to identify violators. It is obligatory to strengthen the handling of violations committed by organisations and individuals selling products and goods on e-commerce trading floors, on websites, on foreign social network sites (e.g. Facebook, Youtube, Zalo, etc.).

It is necessary to prevent the defrauding of consumers via e-commerce platforms. As there is no face-to-face meeting requirement nor pre-acquaintance, many entities take advantage of this feature to commit fraud.

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<sup>5</sup> See Articles 36 and 37 of Decree No.52/2013/ND-CP on E-commerce dated 16 May 2013.

<sup>6</sup> Article I of the GATT Agreement, Article II of the GATS Agreement and Article IV of the TRIPS Agreement.

<sup>7</sup> Article III of GATT, Article XVII of GATS and Article III of TRIPS.

It is important to limit unfair competition by taking advantage of the online reflection mechanism of the State's control system. Some entities doing business on e-commerce websites can take advantage in this way to reflect badly on other businesses which will then be boycotted by consumers.

It is necessary to train, foster, and improve the qualifications of civil servants in state management agencies on e-commerce. In order to manage an activity formed on the basis of information technology with many complex features in terms of management structure and institutions, it requires a contingent of suitably qualified managers. The more e-commerce develops, the easier it becomes to conduct commercial transactions, the more challenging it will be for management. It is necessary for staff to attend training courses, and to invite foreign experts to give instruction on commercial business activities on digital platforms.

It is obligatory to strengthen and improve the security system throughout all transaction activities on e-commerce platforms, ensuring the safety of users as well as other third-party organisations and individuals on the e-commerce platform.

Continuing to assess the current legal status, the actual implementation to clearly recognise existing limitations, to find out the causes of those limitations in order to develop appropriate solutions. The panorama of e-commerce in the current industrial revolution 4.0 has revealed potentials and challenges for Vietnam. It is necessary to immediately concentrate resources on ensuring the attainment of the dual goal of building an effective regulation and management mechanism for e-commerce, combined with promoting vigorous development of this field.

## **5. Conclusion**

The rapid development of e-commerce is associated with the emergence of many new business models that dominate the product and service consumption market, attracting many classes of people and the attention of policy makers and builders of the legal system. The government issued Decree No.85/2021/ND-CP amending and supplementing Decree No.52/2003/ND-CP on e-commerce, in which there are eight notable new points: (i) adding logistics service providers as entities of e-commerce activities (Doan Hong Nhung, et al., 2018, pp.154-161); (ii) specific regulations on the seller's responsibility to provide information on goods and services; (iii) compulsory announcement of goods inspection policy on e-commerce websites; (iv) activities of buying and selling goods on social networks such as Facebook, Instagram, Zalo etc., are now subject to e-commerce laws. Those who directly or indirectly participate in trading activities have to pay fees and must be registered in accordance with regulations; (v) additional responsibilities of traders and organisations providing e-commerce trading floors; (vi) registration to set up an e-commerce website just requires a copy of the business registration certificate to be submitted; (vii) detailed regulations on procedures for registration of electronic contract authentication

activities; and (viii) additional regulations on e-commerce activities of foreign traders and organisations. The Decree officially took effect from January 1, 2022.

The current law on e-commerce activities in Vietnam needs to be codified to establish a legal framework that is uniform, well-aligned, scientific, and effective when applied. In this context, it is necessary to issue a separate law on e-commerce activities.

**Note:** Translator: Lương Quang Luyện. Language editor: Stella Ciorra.

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