

THE GOVERNMENT

Decree No. 52/2013/ND-CP of May 16, 2013, on e-commerce

Pursuant to the December 25, 2001 Law on Organization of the Government;

Pursuant to the June 14, 2005 Civil Code;

Pursuant to the June 14, 2005 Commercial Law;

Pursuant to the November 29, 2005 Law on E-Transactions;

Pursuant to the June 29, 2006 Law on Information Technology;

Pursuant to the December 3, 2004 Competition Law;

Pursuant to the November 17, 2010 Law on Protection of Consumer Interests;

At the proposal of the Minister of Industry and Trade;

The Government promulgates the Decree on e-commerce.

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Decree provides the development, application and management of e-commerce activities.

Article 2. Subjects of application

1. This Decree applies to traders, organizations and individuals engaged in e-commerce activities in the territory of Vietnam, including:

a/ Vietnamese traders, organizations and individuals;

b/ Foreign individuals residing in Vietnam;

c/ Foreign traders and organizations presenting in Vietnam through investment operation, establishment of branches and representative offices or websites with Vietnamese domain name.

2. On the basis of economic and social conditions and management requirements of each period, the Ministry of Industry and Trade shall assume the prime responsibility for, and coordinate with the Ministry of Information and Communications in, guiding management measures for foreign traders, organizations and individuals that carry out e-commerce activities with Vietnamese parties.

Article 3. Interpretation of terms

In this Decree, the terms below are construed as follows:

1. E-commerce activity means conducting part or the whole of the process of commercial activity by electronic means connected to the Internet, mobile telecommunications network or other open networks.
2. National e-commerce development program is a set of contents and tasks of e-commerce development activities in each period in order to encourage and support e-commerce applications to improve the efficiency of business and production, boost domestic commercial transactions and export, and build modern e-commerce infrastructure facilities.
3. E-document in commercial transactions (below referred to as e-document) is a contract, proposal, notice, confirmation or another document in the form of data message provided by the parties and related to contract conclusion or performance.

Electronic documents in this Decree do not include draft, promissory note, bill of lading, shipping bill, warehousing and ex-warehousing bills or any transferable documents which permit the bearers or beneficiaries to have the right to receive goods or services or be paid an amount of money.

4. Originator is the party or a representative of that party that has generated or sent an e-document before storing it. The originator does not include the party acting as an intermediary related to that e-document.
5. Recipient is the party that is intended by the originator to receive the e-document. The recipient does not include the party acting as an intermediary related to that e-document.
6. Automatic information system is an information system for generating, sending, receiving or responding to data messages without human intervention or check of each performed action.
7. Business place is a fixed establishment for carrying out business activities, excluding temporary establishments for goods or service provision.
8. E-commerce website (below referred to as website) is an electronic information page set up to serve part or the whole of the process of buying and selling goods or providing services, from displaying and introducing goods or services to concluding contracts, providing services, making payment and providing after-sales services.
9. E-commerce trading floor is an e-commerce website permitting traders, organizations and individuals that are not the website owner to conduct part or the whole of the process of buying and selling goods or services on that website.

E-commerce trading floor referred to in this Decree does not include online securities trading websites.

10. Online promotion website is an e-commerce website set up by traders and organizations to promote goods and services of other traders, organizations or individuals under the terms of promotion service contracts.
11. Online auction website is an e-commerce website providing solutions allowing traders, organizations and individual that are not the website owner to auction their goods on that website.
12. Online ordering function is a function installed on an e-commerce website or terminal equipment of customers connected to an e-commerce website in order to permit customers to begin the process of conclusion of contracts under the terms published on that website, including conclusion of contracts with an automatic information system.
13. Personal information is information contributing to identifying a particular individual, including his/her name, age, home address, phone number, medical information, account number, information on personal payment transactions and other information that the individual wishes to keep confidential.
- Personal information referred to in this Decree does not include work contact information and other information that the individual himself/herself has published in the mass media.
14. Collection of personal information is the collection of information, including personal information of many consumers being customers or potential customers of traders, organizations or individuals engaged in e-commerce activities, for putting in a database.
15. Service of e-contract certification is a third party's service of storing and assuring the integrity of e-documents created by the parties during the conclusion and performance of contracts.

Article 4. Prohibited acts in e-commerce activities

1. Violations of e-commerce business activities:
- a/ Organizing a marketing and business network for e-commerce services in which each participant is required to pay an initial amount of money to buy the service and receive commission, bonus or other economic benefits from mobilizing others to join the network;
 - b/ Taking advantage of e-commerce to trade in counterfeit goods or trade in goods or provide services infringing upon intellectual property rights, or trade in goods or provide services in the list of goods and services banned from business;
 - c/ Taking advantage of the name of e-commerce business to illegally mobilize capital from other traders, organizations or individuals;

d/ Providing e-commerce services or monitoring, evaluation and certification services in e-commerce when these services have not been registered or licensed in accordance with this Decree;

dd/ Providing e-commerce services or monitoring, evaluation and certification services in e-commerce inconsistent with the information in the dossier of registration or licensing;

e/ Committing fraudulent acts or providing false information when carrying out the procedures for notification of the setting up of an e-commerce website, registering a website to provide e-commerce services, registering or applying for a license to provide monitoring, evaluation and certification services.

2. Violations of information on e-commerce websites:

a/ Falsifying registration information or failing to comply with the regulations on the form and mode of disclosing registration information on e-commerce websites;

b/ Using the logos of credit rating programs of e-commerce websites when having not been recognized by these programs;

c/ Using links, logos or other technologies on e-commerce websites to cause confusion about the relationship with other traders, organizations or individuals;

d/ Using links to provide conflicting or misleading information compared with the information disclosed in the area where the website is connected with this link.

3. Violations of transaction on e-commerce websites:

a/ Performing acts of deceiving consumers on e-commerce websites;

b/ Falsifying information of traders, organizations or individuals in order to participate in e-commerce activities;

c/ Intervening in the operation system and Internet browser in electronic equipment accessible to websites in order to force customers to stay on the websites against their will.

4. Other violations:

a/ Stealing, using, revealing, transferring and selling information relating to business secrets of other traders, organizations or individuals or personal information of consumers in e-commerce without the consent of the parties concerned, unless otherwise provided by law;

b/ Faking or copying the interfaces of e-commerce websites of other traders, organizations or individuals to make profit or to cause confusion or customer distrust in those traders, organizations or individuals.

Article 5. Contents of state management of e-commerce

1. Developing, and organizing the implementation of, mechanisms, policies, strategies, master plans and programs on e-commerce development.
2. Promulgating, and organizing the implementation of, legal documents on e-commerce activities, standards of and regulations on e-commerce applications, and regulations on the management of specific e-commerce services.
3. Managing and supervising e-commerce activities.
4. Disseminating and educating about the law on e-commerce.
5. Organizing technology research, application and transfer in e-commerce.
6. Organizing activities of advising and supporting enterprises to deploy and apply e-commerce.
7. Organizing the training and retraining of human resources for e-commerce.
8. Making e-commerce statistics.
9. Performing international cooperation in the field of e-commerce.
10. Conducting inspection and examination, settling complaints and denunciations and handling violations in e-commerce activities.

Article 6. Responsibilities of state management of e-commerce

1. The Ministry of Industry and Trade is responsible before the Government for performing the state management of e-commerce.
2. Ministries, ministerial-level agencies, People's Committees of provinces and centrally run cities shall, within the ambit of their tasks and powers, coordinate with the Ministry of Industry and Trade in performing the state management of e-commerce.

Article 7. National e-commerce development program

1. The State adopts appropriate policies and measures to promote the transparent and sustainable development of e-commerce through the national e-commerce development program.
2. The contents of the national e-commerce development program include:
 - a/ Building and developing e-commerce infrastructure;
 - b/ Conducting public information to raise awareness of e-commerce;
 - c/ Training and developing human resources for e-commerce;
 - d/ Developing products and solutions of e-commerce;
 - dd/ Advising on the development of e-commerce application plans;
 - e/ Performing international cooperation on e-commerce;

g/ Building management capacity and organizing activities of e-commerce development;

h/ Other contents.

3. The Prime Minister shall stipulate participants, scope of application, management mechanisms and provision of financial assistance for the national e-commerce development program.

Article 8. E-commerce statistics

1. People's Committees of provinces and centrally run cities shall collect statistics on the application of e-commerce of each locality and make annual reports to the Ministry of Industry and Trade for summarization.

2. Traders and organizations providing e-commerce services are obliged to periodically report on their service provision to serve the making of e-commerce statistics.

3. The Minister of Industry and Trade shall promulgate detailed regulations on reporting and statistics for traders and organizations providing e-commerce services and localities with e-commerce enterprises.

Chapter II

CONCLUSION OF CONTRACTS IN E-COMMERCE

Section 1

E-DOCUMENTS IN COMMERCIAL TRANSACTIONS

Article 9. Legal validity as the original

1. E-documents in commercial transactions are legally valid as the original if fully meeting the following two conditions:

a/ There is a reliable assurance of the integrity of information contained in e-documents from the time the information is first generated in the form of e-document;

b/ Information contained in the e-document is accessible and usable in complete form when necessary.

2. The criteria for assessing the integrity of information are completeness and unalteredness, apart from changes in the form arising in the process of communication, storage or display of the e-document.

3. The criteria of reliability assurance are when one of the following measures is applied on the basis of agreement between parties exchanging and using the e-document:

a/ Signing the e-document with the digital signature granted by a lawful digital signature certification service provider;

- b/ Storing the e-document in the system of a licensed e-contract certification service provider that the parties have agreed to select;
- c/ There is an assurance from the trader or organization providing infrastructure for the generation, sending and storage of the e-document about the integrity of the information contained in the e-document during the sending and storage in the system;
- d/ Other measures as agreed upon by the parties.

Article 10. Time and places of sending and receiving e-documents

1. The time of sending an e-document is the time that e-document leaves the information system under the control of the originator or his/her representative. In case the e-document does not leave the information system under the control of the originator or his/her representative, the sending time is the time of receiving the e-document.
2. Unless otherwise agreed by the parties, the time of receiving an e-document is the time that e-document reaches the accessible e-address indicated by the recipient.
3. The place of business of the originator is regarded as the place of sending e-documents and the place of business of the recipient is regarded as the place of receiving e-documents.

Article 11. Places of business of parties

1. The place of business of each party is the place indicated by that party, unless the other party states that it has no place of business at this location.
2. If one party has more than one place of business but does not indicate any place of business, the place of business is the one having the closest relationship with the related contract and in light all circumstances before and at the time of conclusion of the contract.
3. For an individual having no place of business, the place of business is the place of permanent residence registration of that individual.
4. A place where only machinery and technological equipment of the information system used by one party for conclusion of the contract are located or a place only from which the other parties may access that information system is not regarded as a place of business.
5. A place name associated with the domain name or e-mail address of a party is not necessarily related to the place of business of such party.

Article 12. Notice of proposal for conclusion of contract without a specific recipient

A notice by e-document of the proposal for conclusion of contract without a specific recipient is only a notice of offer for conclusion of contract. That notice is not regarded as a proposal for conclusion of contract, unless the notifying party specifies in the notice its responsibilities in case of receiving an acceptance reply.

Article 13. Use of automatic information systems

A contract that is concluded from the interaction between an automatic information system with a person or between automatic information systems cannot be denied its legal validity on the ground of no human check or intervention in each specific action performed by the automatic information system or in the conclusion of the contract.

Article 14. Information entry errors in e-documents

1. When a person makes an error in information entry in an e-document used for communication with the automatic information system of another party but this automatic information system does not support that person to correct the error, that person or the trader, organization or individual that person represents may withdraw the erroneous part of the e-document if meeting the two following conditions:

a/ As soon as being aware of the error, that person or the trader, organization or individual that person represents notifies the other party of the error, clearly stating that he/she has made an error in this e-document;

b/ That person or the trader, organization or individual that person represents has not used, or has not obtained any material benefit or value from, the goods or services received from the other party.

2. The right to withdraw the erroneous part of an e-document does not affect the responsibility to deal with the consequences of arising errors not prescribed in Clause 1 of this Article.

Section 2

CONCLUSION OF CONTRACTS USING THE ONLINE ORDERING FUNCTION ON E-COMMERCE WEBSITES

Article 15. Notice of proposal for conclusion of contract

If an e-commerce website has the online ordering function applicable to each specific goods or service introduced on that website, the introductory information about goods and services and relevant terms are regarded as a notice of proposal for conclusion of contract of the traders, organizations and individuals selling goods as prescribed in Article 12 of this Decree.

Article 16. Provision of terms of contract when using the online ordering function on e-commerce websites

E-commerce websites with the online ordering function shall provide customers with information about the terms of contract specified in Articles 30 thru 34 of this Decree before the time the customers send their proposals for conclusion of contract.

Article 17. Proposal for conclusion of contract

E-documents generated by customers and sent by using the online ordering function are regarded as their proposals for conclusion of contract for the goods or services associated with that online ordering function.

Article 18. Review and confirmation of contract contents

E-commerce websites must have a mechanism that permits customers to review, supplement, modify and confirm the transaction contents before using the online ordering function to send proposals for conclusion of contract. This mechanism of review and confirmation must meet the following conditions:

1. Displaying the following information to customers:

- a/ Name of goods or services, quantity and type;
- b/ Method and time of delivery of goods or provision of services;
- c/ Total value of the contract and the details related to the payment method selected by the customer.

Such information must be capable of being stored and printed on the information system of customers and being displayed later.

2. Displaying to customers information about the way of responding to the proposal for conclusion of contract and time limit for responding to the proposal for conclusion of contract.

3. Permitting customers to select the cancellation of transactions or confirmation of the proposal for conclusion of contract after reviewing the above information.

Article 19. Response to proposal for conclusion of contract

1. Response to accept or reject the proposal for conclusion of contract must be done in appropriate forms so that the information can be stored, printed and displayed in the customer's information system.

2. Upon responding to accept the proposal for conclusion of contract, the trader, organization or individual selling goods shall provide customers with the following information:

- a/ List of all goods or services that customers have ordered, the quantity and price of each product, and total value of the contract;
- b/ Time of goods delivery or service provision;
- c/ Contact information for customers to inquire about the status of contract performance when necessary.

Article 20. Termination of proposal for conclusion of contract

1. In case the trader, organization or individual selling goods has announced a time limit for response to proposals for conclusion of contract, if this time limit expires without any response to the customer, the customer's proposal for conclusion of contract is regarded as no longer valid. The response of acceptance after this time limit is regarded as another proposal for conclusion of contract from the trader, organization or individual selling goods.

2. In case the trader, organization or individual selling goods does not announce any time limit for response to proposals for conclusion of contract, if within 12 (twelve) hours from the time of sending a proposal for conclusion of contract, the customer receives no response to his/her proposal, this proposal is regarded as no longer valid.

Article 21. Time of conclusion of contract when using the online ordering function on e-commerce websites

The time of conclusion of contract when the online ordering function on e-commerce websites is used is the time the customer receives the response from the trader, organization or individual selling goods to accept the proposal for conclusion of contract as prescribed in Clause 2, Article 19 of this Decree.

Article 22. Procedures for termination of contracts on e-commerce and other online services

1. Websites providing e-commerce services and websites providing other online services shall provide online tools for customers to send notices of contract termination when they no longer need to use services. This tool must satisfy the following conditions:

- a/ Allowing customers to store and display notices of contract termination in their information systems after sending these notices;
- b/ Having a feedback mechanism so that customers know that their notices of contract termination have been sent.

2. Websites providing e-commerce services and websites providing other online services shall disclose transparently and completely information on the process and procedures for contract termination including the following contents:

a/ Cases in which the trader, organization or individual provides the contract termination service and the mode of dealing with consequences of this contract termination;

b/ The time of termination of contract validity and the method of paying service charges in case the customer terminates the contract;

c/ If the website does not announce the time of termination of contract validity in case the customer terminates the contract, the time when the customer sends the notice is regarded as the time of contract termination.

Article 23. Conclusion of contracts on goods purchase e-commerce websites

The Ministry of Industry and Trade shall provide in detail the process of online conclusion of contracts on e-commerce websites developed by traders, organizations or individuals to purchase goods and services.

Chapter III

E-COMMERCE ACTIVITIES

Article 24. Subjects of e-commerce activities

The subjects involved in e-commerce activities include:

1. Traders, organizations or individuals that develop e-commerce websites by themselves to serve their commercial promotion, sales or service provision (owners of sales e-commerce websites).
2. Traders, organizations or individuals that develop e-commerce websites to provide an environment for other traders, organizations or individuals to conduct their commercial promotion, sales or service provision (traders or organizations providing e-commerce services).
3. Traders, organizations or individuals that use websites of traders or organizations providing e-commerce services to serve their commercial promotion, sales or service provision (sellers).
4. Traders, organizations or individuals that purchase goods or services on sales e-commerce websites and e-commerce service provision websites (customers).
5. Traders or organizations providing technical infrastructure for owners of sales e-commerce websites and for traders and organizations providing e-commerce services (traders or organizations providing infrastructure).
6. Traders, organizations or individuals that use electronic equipment connected to other networks for carrying out commercial activities.

Article 25. Forms of organization of e-commerce activities

1. Sales e-commerce website is an e-commerce website developed by traders, organizations or individuals by themselves to serve their commercial promotion, sales or service provision.
2. E-commerce service provision website is an e-commerce website developed by traders or organizations to provide an environment for other traders, organizations or individuals to conduct their commercial activities. The e-commerce service provision website is of the following types:
 - a/ E-commerce trading floor;
 - b/ Online auction website;
 - c/ Online promotion website;
 - d/ Other types of website as stipulated by the Ministry of Industry and Trade.
3. With the applications installed on electronic devices connected to the network that allow users to access the databases of other traders, organizations and individuals to purchase and sell goods, provide or use services, depending on the utilities of these applications, traders or organizations shall comply with this Decree's provisions on sales e-commerce website or e-commerce service provision websites.
4. The Ministry of Industry and Trade shall stipulate e-commerce activities conducted on the mobile telecommunications network.

Article 26. Principles of e-commerce activities

1. Principle of free and voluntary agreement in e-commerce transactions
The parties to e-commerce activities are free to reach agreement not contrary to the provisions of law to establish the rights and obligations of each party in the transaction. This agreement is a ground for the settlement of disputes arising in the transaction process.
2. Principles of determination of the scope of business in e-commerce.
If traders, organizations or individuals conducting their activities of sales, service provision or commercial promotion on e-commerce websites do not specify geographical limits of these activities, these activities are regarded to be conducted on a national scale.
3. Principles of determination of the obligation to protect consumer interests in e-commerce
 - a/ The owners of sales e-commerce websites and the sellers on e-commerce service provision website shall comply with the Law on Protection of Consumer Interests when providing the goods or services to customers;

b/ The customers on e-commerce service provision websites are e-commerce service consumers and consumers of goods and services provided by the sellers on these websites;

c/ 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 Law on Protection of Consumer Interests.

4. Principles of trading in goods and provision of services restricted from trading or provision of goods and services subject to business conditions through e-commerce

The subjects applying e-commerce for trading in goods and providing services restricted from trading or provision, or goods and services subject to business conditions shall comply with relevant regulations on the trading in those goods and provision of those services.

Section 1

ACTIVITIES OF SALES E-COMMERCE WEBSITES

Article 27. Responsibilities of traders, organizations or individuals that own sales e-commerce websites

1. To notify the Ministry of Industry and Trade of the set-up of sales e-commerce websites as prescribed in Section 1, Chapter IV of this Decree.
2. To fully provide information on the website under the provisions of this Section and take responsibility for the accuracy and adequacy of information.
3. To comply with the provisions on the protection of customer personal information specified in Section 1, Chapter V of this Decree.
4. To comply with the provisions in Section 2, Chapter II of this Decree if the website has the online ordering function.
5. To comply with the provisions in Section 2, Chapter V of this Decree if the website has the online payment function.
6. To provide information about the situation of their business at the request of a competent state agency to serve the making of e-commerce statistics, inspection, examination and handling of violations in e-commerce.
7. To fulfill tax obligations as prescribed by law.

Article 28. Provision of information on sales e-commerce websites

1. Sales e-commerce websites must fully provide information about the owners of the websites, goods and services and terms of sales and purchase contracts

applicable to goods and services introduced on the websites as specified in Articles 29 thru 34 of this Decree.

2. Such information must satisfy the following requirements:

- a/ Being obvious, accurate, searchable and understandable;
- b/ Being arranged in the corresponding sections on the website and accessible online;
- c/ Being storable, printable and displayable later;
- d/ Being displayed clearly to customers before the time they send a proposal for conclusion of contract.

Article 29. Information about website owner

Traders, organizations or individuals that own sales e-commerce websites shall publish the following minimum information on the website homepage:

- 1. Name and address of the head office of the trader or organization or name and address of permanent residence of the individual.
- 2. Number, date and place of issuance of the business registration certificate of the trader or the number, date of issuance and issuer of the organization's establishment decision or individual's personal tax identification number.
- 3. Telephone number or another online contact method.

Article 30. Information about goods or services

For goods or services introduced on sales e-commerce website, traders, organizations or individuals shall provide information so that customers can correctly identify features of goods or services in order to avoid misunderstanding when deciding to make a proposal for conclusion of contract.

Article 31. Information about price

- 1. Information on prices of goods or services, if any, must be made clear that prices are inclusive or exclusive of the costs related to the purchase of goods or services, such as taxes, packing cost, shipping cost and other arising costs.
- 2. Unless otherwise agreed by the parties, if the information about the prices of goods or services listed on the website does not clearly indicate the price is inclusive or exclusive of the costs related to the purchase of goods or services such as tax, packing cost, shipping cost and other arising costs, the price is understood to have included all the above costs.
- 3. For services on e-commerce service provision websites specified in Sections 2 and 4 of this Chapter, the websites must publish detailed information about the method of calculation of service charge and payment mechanism.

Article 32. Information on general trading conditions

1. Traders, organizations or individuals shall publish the general trading conditions for goods or services introduced on the website, including:
 - a/ Conditions or restrictions on the provision of goods or services, such as limits on time or geographic scope, if any;
 - b/ Return policies, including return term and method, or exchange of goods purchased, method of getting refunds and cost of this return;
 - c/ Product warranty policy, if any;
 - d/ Service standards, service provision process, charge tariff and other terms related to the provision of services, including conditions and restrictions, if any;
 - dd/ The seller's obligations and customer's obligations in each transaction.
2. The general trading conditions must have a font color contrast with the background color of the website on which the general trading conditions are posted and the languages expressing the general trading conditions must include Vietnamese.
3. In case the website has the online ordering function, the seller must have a mechanism for customers to read and express their consent to the general trading conditions before sending a proposal for conclusion of contract.

Article 33. Information about shipment and delivery

1. Traders, organizations or individuals shall publish the following information about the conditions for shipment and delivery applicable to goods or services introduced on the website:
 - a/ Method of delivery of goods or provision of services;
 - b/ Estimated time limit for the delivery of goods or provision of services, taking into account the geographical distance and method of delivery;
 - c/ Geographical limits of the delivery of goods or provision of services, if any.
2. In case of delay in the delivery of goods or provision of services, traders, organizations or individuals shall promptly notify customers thereof and create opportunities for them to cancel the contracts if so wished.

Article 34. Information about payment methods

1. Traders, organizations or individuals shall disclose all payment methods applicable to goods or services introduced on the website, together with clear and accurate explanations so that customers can understand and choose the appropriate payment method.
2. If the e-commerce website has the online payment function, traders, organizations or individuals shall create a mechanism for customers to use this

function to review and confirm detailed information about each transaction before making the payment.

Section 2

OPERATION OF E-COMMERCE TRADING FLOORS

Article 35. Provision of e-commerce trading floor services

1. Traders or organizations that provide e-commerce trading floor services are traders or organizations setting up e-commerce websites for other traders or organizations to conduct a part or the whole of the process of sale and purchase of goods and services on these websites.

2. Forms of operation of e-commerce trading floor:

a/ Website allows participants to open booths for display and introduction of goods or services;

b/ Website allows participants to set up branch websites for displaying and introducing goods or services;

c/ Website has a sale and purchase section permitting participants to post news of sale and purchase of goods or services;

d/ Other types of website stipulated by the Ministry of Industry and Trade.

3. Websites operating as goods exchanges:

a/ Traders or organizations setting up e-commerce websites that permit participants to sell and purchase goods according to the method of goods exchange must have a license for goods exchange establishment and shall comply with regulations on the goods exchange;

b/ The Ministry of Industry and Trade shall specify the mechanism of monitoring and connection of transaction information between the state management agencies and the goods exchange and other requirements on the operation of the website operating as a goods exchange.

Article 36. Responsibilities of traders or organizations providing e-commerce trading floor services

1. To register for setting up websites providing e-commerce trading floor services under Section 2, Chapter IV of this Decree and publish the information registered on the website homepage.

2. To develop and publish on the website regulations on operation of the e-commerce trading floor under Article 38 of this Decree; monitor the e-commerce trading floor and ensure the implementation of these regulations.

3. To request traders, organizations or individuals that are the sellers on the e-commerce trading floor to provide information as specified in Article 29 of this Decree upon registration for service use.
4. To apply a mechanism of examination and monitoring to ensure the seller's information provided on the e-commerce trading floor is correct and adequate.
5. To store the registration information of traders, organizations or individuals participating in the e-commerce trading floor and regularly update relevant changed or supplemented information.
6. To establish a mechanism to permit traders, organizations or individuals participating in the e-commerce trading floor to perform the process of conclusion of contract as specified in Section 2, Chapter II of this Decree if the website has the online ordering function.
7. To apply necessary measures to ensure the safety of information relating to business secrets of traders, organizations or individuals and consumers' personal information.
8. To take timely remedial measures upon detection or receipt of reports about business acts in violation of the law on the e-commerce trading floor.
9. To assist the state management agencies in investigating illegal business acts, provide registration information, history of transactions and other documents about the subjects committing violations of the law on the e-commerce trading floor.
10. To publicly announce the mechanism to settle disputes arising during transactions on the e-commerce trading floor. When customers on the e-commerce trading floor have conflicts with the sellers or their lawful interests are damaged, to provide customers with information about the sellers and actively assist customers in protecting their rights and legitimate interests.

Article 37. Responsibilities of sellers on the e-commerce trading floor

1. To fully and accurately provide information specified in Article 29 of this Decree to traders or organizations providing e-commerce trading floor services upon registration for service use.
2. To provide complete information about the goods or services as specified in Articles 30 thru 34 of this Decree when selling goods or providing services on the e-commerce trading floor.
3. To ensure the accuracy and truthfulness of information about the goods or services provided on the e-commerce trading floor.
4. To implement the provisions in Section 2, Chapter II of this Decree upon application of the online ordering function on the e-commerce trading floor.

5. To provide information about the situation of their business at the request of competent state agencies to serve the making of e-commerce statistics.
6. To comply with the laws on payment, advertising, promotion, protection of intellectual property rights, protection of consumer interests and other relevant laws when selling goods or providing services on the e-commerce trading floor.
7. To fulfill tax obligations as prescribed by law.

Article 38. Regulations on operation of the e-commerce trading floor

1. The regulations on operation of the e-commerce trading floor must be displayed on the website homepage
2. The regulations on operation of the e-commerce trading floor must include the following contents:
 - a/ Rights and obligations of the trader or organization providing e-commerce trading floor services;
 - b/ Rights and obligations of users of e-commerce trading floor services;
 - c/ Describing the trading process for each type of transaction that may be conducted on e-commerce trading floor;
 - d/ Reviewing operation and handling competence of the trader or organization providing e-commerce trading floor services upon detection of business acts in violation of the law on the e-commerce trading floor;
 - dd/ Rights and obligations of the parties in transactions conducted on the e-commerce trading floor;
 - e/ Limitations on the responsibilities of the trader or organization providing e-commerce trading floor services in transactions conducted on the floor;
 - g/ Regulations on information safety and management on the e-commerce trading floor;
 - h/ Mechanism of settlement of complaints and disputes between parties related to the transactions conducted on the e-commerce trading floor;
 - i/ Policies on protection of personal information of users of e-commerce trading floor services specified in Article 69 of this Decree;
 - k/ Measures to handle infringements upon consumer interests on the e-commerce trading floor;
 - l/ Measures to handle violations committed by people who do not comply with the regulations on operation of the e-commerce trading floor.
3. When there is any change in one of the contents specified in Clause 2 of this Article, the trader or organization providing e-commerce trading floor services

shall notify all users of e-commerce trading floor services at least 5 days prior to application of such change.

Section 3

OPERATION OF ONLINE PROMOTION WEBSITES

Article 39. Provision of online promotion services

1. Traders or organizations providing online promotion services are those that set up online promotion websites to promote goods and services of other traders, organizations or individuals (referred to as partners) under the terms of the contract on promotion services.

2. Forms of online promotion service:

a/ Selling goods vouchers and service vouchers so that customers can buy goods or use services of the partners at preferential prices or with other benefits;

b/ Selling frequent customer cards to enable customers to use goods or services from a network of partners at preferential prices or with other benefits compared with those upon purchase of goods and services of each individual partner;

c/ Other forms of online promotion services stipulated by the Ministry of Industry and Trade.

Article 40. Information about promotion activities on online promotion websites

1. Information about each promotion activity posted on online promotion websites must include the following contents:

a/ Name, address, phone number and other contact information of the trader, organization or individual having goods or services to be promoted;

b/ Descriptions of goods or services to be promoted and goods or services used for promotion, including information about the origin of goods, specifications and quality of goods or services;

c/ Promotion period, starting date, ending date and area of promotional activities;

d/ Prices of goods and services provided before the time of promotion;

dd/ Total actual costs customers must pay to possess the goods and use the services promoted, including the costs paid to the trader or organization providing the online promotion services;

e/ Specific contents of conditions associated with the promotion of goods or services.

2. If the website has a mechanism for receiving online comments or feedback from customers about the goods or services promoted, these comments must be publicly displayed on the website so that other customers can see them.

Article 41. Responsibilities of traders or organizations providing online promotion services

1. To register the set-up of online promotion service provision websites as prescribed in Section 2, Chapter IV of this Decree.
2. To comply with provisions of the Commercial Law and relevant laws on promotional activities.
3. To comply with provisions on protection of customer's personal information in Section 1, Chapter V of this Decree.
4. To comply with provisions in Section 2, Chapter II of this Decree if the website has the online ordering function for goods vouchers and service vouchers or frequent customer cards.
5. To comply with provisions in Section 2, Chapter V of this Decree if the website has the online payment function.
6. To fully publish contents specified in Article 40 of this Decree in each promotional information posted on their websites.
7. To develop and publish on their website the regulations on operation and comply with provisions in Article 38 of this Decree.
8. To develop and publish on their website the mechanism of receipt and settlement of customer's complaints about quality of goods or services promoted or goods or services used for promotion.
9. To take responsibility of the third party in providing information on goods or services for consumers in accordance with the Law on Protection of Consumer Interests.
10. To pay compensations to customers if the goods vouchers, service vouchers or frequent customer cards that they have issued are denied by their partners contrary to the conditions published on their websites or on those goods vouchers, service vouchers or frequent customer cards.

Article 42. Responsibilities of traders, organizations or individuals having goods or services promoted

1. To fully and accurately provide information about the goods or services promoted.
2. To properly implement commitments to the quality of goods or services promoted according to the information provided.

Article 43. Contract on promotion services

1. A contract on promotion services between a trader or an organization providing the online promotion services with a trader or an organization or individual having goods or services promoted shall comply with provisions in Article 90 of the Commercial Law, and must have the following contents:

a/ Dividing responsibilities between the parties in the implementation of the order and procedures for carrying out promotional activities in accordance with the law on promotion;

b/ Specifying the obligations to settle complaints and pay compensations to customers in case the goods or services promoted or goods or services used for promotion are not consistent with the announced or committed contents.

2. Traders or organizations providing online promotion services shall perform the obligations specified at Points a and b, Clause 1 of this Article if the contract on promotion services does not specify the above contents.

Section 4

OPERATION OF ONLINE AUCTION WEBSITES

Article 44. Provision of online auction services

1. Traders and organizations providing online auction services (below collectively referred to as online auction service providers) are those that set up online auction websites for other traders, organizations or individuals to organize auctions of their goods on those websites.

2. Traders and organizations providing online auction services that fail to register the provision of auction services may not organize online auctions.

Article 45. Requirements on technical system serving online auctions

1. A technical system serving online auctions must have at least the following functions:

a/ Recording and storing all bids made in an auction;

b/ After an auction begins, once every 30 (thirty) seconds showing the recorded highest bid and its bidder on the website for all auction bidders to see.

2. In case the system does not allow auction bidders to retract bids that they have made, it must have a clear notification thereof to auction bidders right before the time of the auction. The notification must state specific responsibilities of auction bidders that make bids but refuse to purchase auctioned goods.

Article 46. Responsibilities of traders and organizations providing online auction services

1. To register their online auction websites as prescribed in Section 2, Chapter IV of this Decree.
2. To perform the responsibilities prescribed in Article 36 of this Decree.
3. To establish online auction methods and process.
4. To build technical systems to serve online auctions for goods sellers to organize auctions by the established methods and process.
5. To provide online tools for goods sellers to publicly, adequately and accurately notify and post necessary information relevant to auctioned goods.
6. To provide online tools for goods sellers to display images of goods and goods samples or documents introducing goods for auction bidders' consideration.
7. To provide goods sellers with information on developments of auctions organized by goods sellers when so requested.
8. To make notices of auction results and send them to goods sellers and purchasers and related parties as prescribed in Article 51 of this Decree.
9. To take responsibility in case errors of the technical system make an auction unable to proceed:
 - a/ If the errors of the technical system make an auction unable to begin at the time the seller expects to organize such auction, the online auction service provider shall refund the seller all expenses for the organization of the auction which the latter has paid to the former;
 - b/ If the errors of the technical system make auction bidders unable to continue making bids after the auction begins, the online auction service provider shall cancel the auctions result and allow the seller to organize a new auction, and concurrently bear all expenses related to the new auction.

Article 47. Responsibilities of sellers on online auction websites

1. To publicly, adequately and accurately notify and post necessary information relating to auctioned goods.
2. To announce reserve prices; asking price, if any.
3. To take responsibility for the quality and specifications of auctioned goods.
4. To settle purchasers' complaints about auctioned goods.
5. Not to sell goods which are pledged or mortgaged items or subject to a dispute.

6. To perform other responsibilities prescribed in Article 37 of this Decree.

Article 48. Auction venues and time

1. Auction venues are registered places of permanent residence or offices of sellers.
2. Auction time is decided by sellers.
3. Time of making a bid by an auction bidder is the time of sending an e-document notifying a certain bid made in an auction.
4. Time of recording a made bid is the time when the information system of the trader or organization providing online auction service receives an e-document notifying a bid made by an auction bidder.

Article 49. Notification of goods auction

A notification of goods auction must be made on an online auction website and contain the following details:

1. Starting time of auction.
2. Ending time of auction.
3. Contact information of the seller.
4. Necessary information about the goods.
5. Reserve price.
6. Asking sale price, if any.
7. Payment deadline and method.
8. Deadline and method of delivery of goods to the purchaser after the auction ends.
9. In case the auctioned goods are subject to ownership registration as prescribed by law, the notification of goods auction must contain the following additional details:
 - a/ Time and place for goods display;
 - b/ Time and place for reference to goods documents;
 - c/ Time and place for goods purchase registration;
 - d/ Time and method of carrying out procedures for goods ownership transfer.

Article 50. Identification of goods purchasers

1. For an ascending-bid auction, the goods purchaser is the first bidder who has the last bid higher than that of the previous bidder and higher than the asking price and recorded by the information system of the trade or organization providing online auction services before the end of the auction.

2. For a descending price auction, the goods purchaser is the first bidder who accepts the reserve price or a price lower than the reserve price and that is recorded by the information system of the trader or organization providing online auction services before the end of the auction.

3. Where many bidders simultaneously make their last bids in an ascending price auction or their first bids in a descending price auction, the seller shall organize for these bidders to draw the purchaser.

Article 51. Notification of auction results

1. Traders and organizations providing online auction services shall make notifications of goods auction results immediately after the end of auctions, even when auctions are unsuccessful.

2. A notification must clearly provide information on the goods, the last bid and the time when the system receives the last bid, and contact information of the purchaser.

3. For goods which are subject to ownership registration as prescribed by law, notifications of auction results serve as the basis for establishing contracts on sale and purchase of auctioned assets and carrying out relevant procedures for transfer of ownership over these goods.

4. Notifications of auction results will be sent to electronic addresses of goods sellers and purchasers registered with traders or organizations providing online auction services.

5. Where many bidders simultaneously make their last bids in an ascending price auction or their first bids in a descending-bid auction, the system must send notifications to all these bidders and request them to organize a draw to the purchaser. The form of decide drawing is decided by the seller.

Chapter IV

MANAGEMENT OF E-COMMERCE ACTIVITIES

Section 1

MANAGEMENT OF SALES E-COMMERCE WEBSITES

Article 52. Conditions for setting up sales e-commerce websites

Traders, organizations or individuals may set up sales e-commerce websites if satisfying the following conditions:

1. Having relevant functions and tasks, for traders and organizations, or having been granted personal tax identification numbers, for individuals.

2. Having websites with valid domain names and complying with regulations on management of information on the Internet.

3. Having notified the Ministry of Industry and Trade of the set-up of sales e-commerce websites under Article 53 of this Decree.

Article 53. Procedures for notification of set-up of sales e-commerce websites

1. Traders, organizations or individuals that set up sales e-commerce websites shall notify such to the Ministry of Industry and Trade through online notification tools on the E-Commerce Management Portal.

2. Information to be notified includes:

a/ Domain name of the e-commerce website;

b/ Types of goods and services to be introduced on the website;

c/ Registered name of the trader or organization or name of the individual owning the website;

d/ Address of the office of the trader or organization or address of permanent residence of the individual;

dd/ Number, date and place of grant of the business registration certificate of the trader, or number, date of grant and granting agency of the establishment decision of the organization; or personal tax identification number of the individual;

e/ Names, titles, identity card numbers, telephone numbers and e-mail addresses of the representative of the trader and person responsible for the e-commerce website;

g/ Other information as prescribed by the Ministry of Industry and Trade.

Section 2

MANAGEMENT OF E-COMMERCE SERVICE PROVISION WEBSITES

Article 54. Conditions for setting up e-commerce service provision websites

Traders and organizations may set up e-commerce service provision websites specified in Sections 2, 3 and 4, Chapter III of this Decree when fully satisfying the following conditions:

1. Having relevant business lines or functions and tasks.

2. Having websites with valid domain names and complying with regulations on management of information on the Internet.

3. Having a service provision plan clearly stating the following:

a/ Model of organization of operations, including service provision, promotion and marketing both online and offline;

b/ Structure, utilities and main information sections on the service website;

c/ Rights and responsibilities of the trader or organization providing e-commerce services and service users.

4. Having registered for setting up e-commerce service provision websites and having their registrations certified by the Ministry of Industry and Trade under Articles 55 and 58 of this Decree.

Article 55. Procedures for registration for setting up e-commerce service provision websites

1. Traders and organizations shall make registrations online with the Ministry of Industry and Trade for setting up e-commerce service provision websites after their websites have been completed with adequate structure, utilities and information according to service provision plans and operating at registered addresses of domain names, and before officially providing services to users.

2. A registration dossier comprises:

a/ An application for registration for setting up an e-commerce service website;

b/ Certified copies of the establishment decision (for organizations), business registration certificate, investment certificate or investment license (for traders);

c/ The service provision plan as prescribed in Clause 3, Article 54 of this Decree;

d/ Regulation on operation management of the e-commerce service website in compliance with this Decree and relevant laws;

dd/ Model service provision contract and general transaction conditions, if any;

e/ Other documents prescribed by the Ministry of Industry and Trade.

Article 56. Registration modification or supplementation, re-registration, deregistration

1. A trader or organization that sets up an e-commerce service website shall notify the modification or supplementation of registered information when having one of the following changes:

a/ Change of the name of the trader or organization;

b/ Change of the representative of the trader or the person responsible for the service website;

c/ Change of the transaction bureau address or contract information;

d/ Change of the domain name;

dd/ Change in the transaction regulation and conditions on the service website;

e/ Change of terms of the service provision contract;

- g/ Change or addition of services to be provided on the website;
 - h/ Other changes as prescribed by the Ministry of Industry and Trade.
2. When receiving transferred e-commerce service provision websites, traders and organizations shall make re-registration under Article 55 of this Decree.
3. An e-commerce service website is deregistered in the following cases:
- a/ At the request of the trader or organization providing e-commerce services;
 - b/ The trader or organization providing e-commerce services ceases its operation or transfers its e-commerce service website to another trader or organization;
 - c/ The e-commerce service website fails to commence operation within 30 (thirty) days after its registration or sends no feedback at the request of a state management agency;
 - d/ The trader or organization providing e-commerce services has the registration revoked under Clause 2, Article 78 of this Decree;
 - dd/ Other cases as prescribed by the Ministry of Industry and Trade.

Article 57. Reporting obligation

Before January 15 every year, traders and organizations providing e-commerce services shall report to the Ministry of Industry and Trade on statistics on their operations in the preceding year under Article 8 of this Decree.

Article 58. Competence to grant registration

1. The Ministry of Industry and Trade shall certify registrations of e-commerce service provision websites.
2. The Ministry of Industry and Trade shall specify requirements on the content of dossiers, order and procedures for registration, modification or supplementation of registration and deregistration of e-commerce service provision websites.

Article 59. Publication of registration information

1. Right after having their registrations certified, e-commerce service provision websites may post the “registered” icon on their homepages. Clicking on this icon, users will be linked to the section of registration information of traders or organizations providing e-commerce services at the E-Commerce Management Portal.
2. The Ministry of Industry and Trade shall publicize the list of e-commerce service provision websites which have been registered or deregistered or have their registrations invalidated on the E-Commerce Management Portal and in other mass media.

Section 3

RATING, SUPERVISION AND CERTIFICATION IN E-COMMERCE

Article 60. General principles

1. Traders and organizations that conduct credit rating of e-commerce websites shall register with the Ministry of Industry and Trade.
2. Traders and organizations that conduct the following activities must be licensed by the Ministry of Industry and Trade:
 - a/ Rating and certification of personal information protection policy of traders, organizations or individuals involved in e-commerce;
 - b/ Certification of e-contracts.

Article 61. Credit rating of e-commerce websites

1. Conditions for conducting credit rating of e-commerce websites:
 - a/ Being a trader or an organization established under Vietnamese law and having relevant functions and tasks;
 - b/ Being organizationally and financially independent from traders, organizations or individuals owning e-commerce websites to be rated;
 - c/ Having a set of criteria and process for rating e-commerce websites which are publicly and transparently announced and uniformly applicable to to-be-rated subjects;
 - d/ Having registered the operation of credit rating of e-commerce websites with the Ministry of Industry and Trade and having its registration certified.
2. A trader or an organization that conducts credit rating of e-commerce websites is deregistered in the following cases:
 - a/ It commits a fraud or provides untruthful information making registration;
 - b/ It fails to strictly observe the publicly announced credit rating process and criteria;
 - c/ It takes advantage of credit rating for earning illicit profits.
3. The Ministry of Industry and Trade shall specify the operation of credit rating of e-commerce websites, the content of dossiers, order and procedures for registration, registration modification, supplementation or invalidation, and deregistration of traders and organizations engaged in this operation.
4. Obligations of traders and organizations conducting credit rating of e-commerce websites:
 - a/ To supervise operations of e-commerce websites having the credit icon;

- b/ To closely coordinate with state management agencies in inspecting, examining and handling e-commerce websites having the credit icon which show signs of law violation;
- c/ Before the 5th day every month, to report to the Ministry of Industry and Trade on the updated list of e-commerce websites having the credit icon by the end of the preceding month;
- d/ Before the 15th day of January every year, to report to the Ministry of Industry and Trade on the operation of credit rating of e-commerce websites in the preceding year.

Article 62. Rating and certification of personal information protection policy in e-commerce

1. Conditions for licensing a trader or an organization to conduct rating and certification of personal information protection policy in e-commerce:

- a/ Being a trader or an organization established under the Vietnamese law;
- b/ Having a business registration or an establishment decision clearly stating the operation is rating and certification of personal information protection policy in e-commerce;
- c/ Being organizationally and financially independent from traders, organizations or individuals that have their personal information protection policy rated and certified;
- d/ Having a detailed operation plan already appraised by the Ministry of Industry and Trade;
- dd/ Having criteria and process for rating personal information protection policy compliant with regulations of the Ministry of Industry and Trade.

2. A license for rating and certification of personal information protection policy in e-commerce has a validity duration proposed in the license application.

3. A trader or an organization that has its license for rating and certification of personal information protection policy revoked in the following cases:

- a/ It commits a fraud or provides untruthful information in order to obtain the license;
- b/ It violates the rating process and criteria already appraised by the Ministry of Industry and Trade;
- c/ It takes advantage of the rating and certification of personal information protection policy for earning illicit profits;

d/ It fails to provide services after 180 (one hundred and eighty) days from the date of licensing.

4. Obligations of traders and organizations conducting rating and certification of personal information protection policy in e-commerce:

a/ To supervise the observance by traders and organizations with certified personal information protection policy;

b/ To closely coordinate with state management agencies in inspecting, examining and handling traders and organizations that have had their personal information protection policy certified but show signs of law violation;

c/ Before the 15th of January every year, to report to the Ministry of Industry and Trade on results of rating and certification of personal information protection policy in e-commerce in the preceding year.

5. The Ministry of Industry and Trade shall specify criteria and process for rating and certification of personal information protection policy, and the order and procedures for the grant, modification, supplementation or revocation of operation licenses of organizations conducting rating and certification of personal information protection policy.

6. Accreditation of foreign organizations conducting rating and certification of personal information protection policy:

a/ Certification of personal information protection policy in e-commerce granted by a foreign organization conducting rating and certification of personal information protection policy is accredited when such organization is granted an accreditation certificate by the Ministry of Industry and Trade;

b/ A foreign organization conducting rating and certification of personal information protection policy is granted an accreditation certificate when satisfying the following conditions:

- It has been licensed or certified by a competent agency of its country to be eligible to conduct this operation;

- It has been accredited by an international organization of which Vietnam is a member;

- Its standards for credit and certification of personal information protection policy are not lower than those set out by the Ministry of Industry and Trade;

- It commits to fulfilling the obligations prescribed in Clause 4 of this Article.

c/ The Ministry of Industry and Trade shall specify the order and procedures for the grant and revocation of certificates of accreditation of foreign organizations conducting rating and certification of personal information protection policy.

Article 63. Certification of e-contracts

1. Conditions for licensing a trader or an organization to provide the service of certification of e-contracts:

a/ Requirements on the entity:

- Being a trader or an organization established under Vietnamese law and having relevant functions and tasks;
- Having a detailed plan on service provision already appraised by the Ministry of Industry and Trade.

b/ Financial and technical requirements:

The Ministry of Industry and Trade shall specify financial and technical requirements for traders and organizations providing the service of certification of e-contracts.

2. The operation license of a trader or an organization providing the service of certification of e-contracts has a validity duration proposed in the license application.

3. Obligations of traders and organizations providing the service of certification of e-contracts:

a/ To take responsibility for the confidentiality and integrity of e-documents which they store and certify;

b/ To provide documents to and assist state management agencies in investigating law violations related to e-documents which they store and certify;

c/ Before the 15th of January every year, to report to the Ministry of Industry and Trade on the provision of the service of certification of e-contracts in the preceding year.

4. The Ministry of Industry and Trade shall detail procedures for establishment and operation regulations of traders and organizations providing the service of certification of e-contracts; cases subject to revocation of operation licenses; and order and procedures for the grant, modification, supplementation or revocation of operation licenses of these traders and organizations.

Section 4

THE E-COMMERCE MANAGEMENT PORTAL

Article 64. Functions of the E-Commerce Management Portal

1. The Ministry of Industry and Trade shall set up, update and maintain the E-Commerce Management Portal.

2. The E-Commerce Management Portal has the following functions:

- a/ To provide online public services regarding the procedures for notifying the set-up of sales e-commerce websites prescribed in Section 1 of this Chapter.
- b/ To provide online public services regarding the procedures for registering e-commerce service provision websites prescribed in Section 2 of this Chapter.
- c/ To provide information guiding the procedural process and forms for registration and application for licensing of services of supervision, rating and certification in e-commerce as prescribed in Section 3 of this Chapter.
- d/ To publicize information specified in Articles 65, 66 and 67 of this Decree.

Article 65. Lists of e-commerce websites for which the notification and registration procedures have been carried out

1. The Ministry of Industry and Trade shall publicize on the E-Commerce Management Portal the following lists:

- a/ List of sales e-commerce websites which have been notified as prescribed in Section 1 of this Chapter;
- b/ List of e-commerce service provision websites which have been registered as prescribed in Section 2 of this Chapter.

2. The publicized lists specified in Clause 1 of this Article must include the following information:

- a/ Names of e-commerce websites and website types as notified to or registered with the Ministry of Industry and Trade;
- b/ Names and contract information of traders, organizations or individuals that own e-commerce websites;
- c/ Numbers of business registrations of traders, numbers of establishment decisions of organizations or personal tax identification numbers of individuals owning e-commerce websites.

Article 66. List of traders and organizations conducting credit rating of e-commerce websites

1. The Ministry of Industry and Trade shall publicize on the E-Commerce Management Portal the list of traders and organizations providing the service of credit rating of registered e-commerce websites as prescribed in Section 3 of this Chapter.

2. The publicized list specified in Clause 1 of this Article must include the following information:

- a/ Names of traders and organizations providing the service of credit rating of e-commerce websites;

- b/ Numbers of business registrations of traders or numbers of establishment decisions of traders and organizations.
- c/ Addresses of offices, telephone numbers and e-mail addresses of traders and organizations.
- d/ List of e-commerce websites having the credit icon put on by traders and organizations.

Article 67. Lists of e-commerce websites subject to consumer caution alerts

1. The Ministry of Industry and Trade shall publicize on the E-Commerce Management Portal the following lists:

- a/ List of e-commerce websites that have committed law violations;
- b/ List of e-commerce websites that reportedly show signs of law violation.

2. The Ministry of Industry and Trade shall detail the mechanism of receipt and publication of reported information on e-commerce websites specified in Clause 1 of this Article.

Chapter V

SAFETY AND SECURITY IN E-COMMERCE TRANSACTIONS

Section 1

PERSONAL INFORMATION PROTECTION IN E-COMMERCE

Article 68. Responsibility to protect personal information of consumers

1. When conducting e-commerce business activities, traders, organizations or individuals that collect personal information of consumers shall comply with this Decree and relevant regulations on protection of personal information.

2. In case a trader, organization or individual engaged in e-commerce business activities authorizes a third party to collect and store personal information of consumers:

a/ The contract between the two parties must clearly define the responsibility of each party to comply with this Decree and relevant regulations on protection of personal information;

b/ If the contract between the two parties does not clearly define the responsibility of each party, the trader, organization or individual engaged in e-commerce business activities shall take responsibility in case the collection, storage and use of personal information of consumers violate this Decree and relevant regulations on protection of personal information.

Article 69. Policy on protection of personal information of consumers

1. Trader, organizations or individuals that collect and use personal information of consumers shall formulate and announce their personal information protection policy with the following details:

a/ Purpose(s) of collection of personal information;

b/ Scope of information use;

c/ Duration of information storage;

d/ Persons or organizations that may access such information;

dd/ Address of the information collection and management unit, indicating how consumers can ask about the collection and processing of information relevant to them;

e/ Method and tools for consumers to access and modify their personal data on the e-commerce system of the information collection unit.

2. The above details must be clearly displayed to consumers before or at the time of information collection.

3. If the information collection is conducted through e-commerce websites of information collection units, the personal information protection policy must be publicly displayed at an easy-to-spot position on these websites.

Article 70. Asking for consumer permission upon information collection

1. Except the cases specified in Clause 4 of this Article, traders and organizations that collect and use personal information of consumers on their e-commerce websites (below collectively referred to as information collection units) shall obtain prior consent of consumers having such information (below referred to as information subjects).

2. Information collection units shall develop a mechanism for information subjects to express their consent explicitly through online functions on their websites, emails, messages or otherwise as agreed upon by the two parties.

3. Information collection units shall develop a separate mechanism for information subjects to choose to permit or not to permit the use of their personal information in the following cases:

a/ Sharing, disclosure or transfer of information to a third party;

b/ Use of personal information for sending advertisements, product introductions and other commercial information.

4. Information collection units are not required to obtain prior consent of information subjects in the following cases:

a/ Collection of personal information already published on e-commerce websites;

b/ Collection of personal information for concluding or performing goods and service purchase and sale contracts;

c/ Collection of personal information for calculating prices or charges for use of information, products and services online.

Article 71. Use of personal information

1. Information collection units shall use personal information of consumers for purposes and within scopes already notified, except the following cases:

a/ They have separate agreements with information subjects on use purpose and scope other than those they have notified;

b/ To provide services or products at the request of information subjects;

c/ To perform the obligations prescribed by law.

2. The use of information prescribed in this Article includes sharing, disclosure and transfer of personal information to third parties.

Article 72. Assurance of personal information safety and security

1. Information collection units shall assure safety and security of personal information which they have collected and stored, and prevent the following acts:

a/ Hacking or illegally accessing information;

b/ Illegally using information;

c/ Illegally altering or destroying information.

2. Information collection units shall formulate mechanisms for receiving and settling consumer complaints about the use of personal information for improper purposes or beyond the notified scope.

3. In case an information system is hacked, posing a risk of loss of consumer information, information storing units shall notify the incident to a functional agency within 24 (twenty-four) hours after detecting it.

Article 73. Checking, updating and modification of personal information

1. Information subjects may request information collection units to check, update, modify or delete their personal information.

2. Information collection units shall check, update, modify or delete personal information of information subjects when so requested or provide information subjects with tools for self checking, updating or modification of their personal information.

Section 2

PAYMENT SAFETY IN E-COMMERCE

Article 74. Responsibilities of traders, organizations or individuals that own e-commerce websites with the online payment function

1. Traders, organizations or individuals that own e-commerce websites with the online payment function shall assure safety and confidentiality of payment transactions of their customers, settle complaints and pay damages in case customer payment information via e-commerce websites is illegally altered, deleted, destroyed, copied, revealed, removed or appropriated, causing damage to customers.

2. In case of self-developing payment solutions to exclusively serve their own sales e-commerce websites, traders, organizations or individuals that own these websites shall apply the following measures to assure safety and confidentiality of customer payment transactions:

a/ Setting up an information system to serve payment activities and assure online connection around the clock 24 (twenty-four) hours a day and 7 (seven) days a week. The suspension of the system for maintenance must not exceed 12 (twelve) hours each time and be notified in advance to customers;

b/ Encrypting information and using security protocols to prevent information leakage during transmission;

c/ Deploying applications which are capable of detecting, warning and preventing illegal accesses and various online attacks against the information systems serving their online payment activities;

d/ Having plans to control the right to access the system and the right to enter or leave places where information system equipment are installed to serve their online payment activities;

dd/ Establishing processes and systems for copying, storing and recovering data when the information systems serving payment activities encounter incidents, assuring copying and storage of payment data on media or online copying and caching of all data;

e/ Storing data on each payment transaction for a time limit prescribed in the Accounting Law;

g/ In case customers make payments before purchasing goods and services, customers' payments must be kept at payment service providers and customers must be provided with tools to monitor their payment balances on the system.

3. Traders, organizations or individuals that own e-commerce websites with the online payment function shall publicize on their websites the policy on confidentiality of customer payment information.

Article 75. Responsibilities of traders and organizations providing payment intermediary services for e-commerce websites

1. To comply with regulations and technical regulations on payment intermediary services promulgated by the State Bank of Vietnam.
2. To store data on each payment transaction conducted via their systems for a time limit prescribed in the Accounting Law.
3. To take joint responsibility with traders, organizations or individuals that own e-commerce websites using their payment intermediary service for cases in which payment information of customers is illegally altered, deleted or destroyed, copied, revealed, removed or appropriated, causing damage to customers.
4. Before the 15th of January every year, to report to the Ministry of Industry and Trade statistics on the provision of services to traders, organizations or individuals involved in e-commerce activities.

Chapter VI

SETTLEMENT OF DISPUTES, INSPECTION, EXAMINATION, AND HANDLING OF VIOLATIONS

Article 76. Settlement of disputes in e-commerce

1. Traders, organizations or individuals that own sales e-commerce websites shall receive and settle customer complaints about contracts concluded on their e-commerce websites.
2. Disputes between traders, organizations or individuals that sell goods and provide services and their customers during the performance of contracts must be settled on the basis of the contract terms published on the websites at the time of conclusion of these contracts and relevant laws.
3. Traders, organizations or individuals that sell goods and provide services may not abuse their advantages in the electronic environment to unilaterally settle disputes without the consent of customers.
4. Disputes must be settled through negotiation between disputing parties, conciliation, arbitration or court according to current procedures and regulations on dispute settlement.
5. Settlement of complaints and disputes on e-commerce service provision websites:
 - a/ Traders and organizations providing e-commerce services shall clearly publish on their websites the process of receiving and responsibility for settling customer complaints and the mechanism of settling disputes related to contracts concluded on their e-commerce websites;
 - b/ If traders and organizations providing e-commerce services fail to publish information according to Point a of this Clause, they shall directly receive and

settle customer complaints and disputes related to contracts concluded on their e-commerce websites.

c/ Traders and organizations providing e-commerce services may participate in the conciliation of disputes arising between customers and sellers on their e-commerce websites.

Article 77. Inspection and examination in e-commerce

1. Traders and organizations defined in Section 3, Chapter IV of this Decree submit to annual examination by the Ministry of Industry and Trade of their observance of this Decree and relevant documents. Examination results are published on the E-Commerce Management Portal.

2. Traders and organizations defined in Sections 1 and 2, Chapter IV of this Decree submit to examination and inspection by the Ministry of Industry and Trade and provincial-level Industry and Trade Departments in accordance with law.

Article 78. Handling of administrative violations in e-commerce

1. Traders, organizations or individuals that commit the following violations shall, depending on the nature and severity of their violations, be administratively sanctioned in accordance with the law on handling of administrative violations in e-commerce:

a/ Violation of provisions on prohibited acts in e-commerce activities in Article 4 of this Decree;

b/ Violation of regulations on conclusion of contracts in e-commerce;

c/ Violation of regulations on responsibilities of subjects in e-commerce;

d/ Violation of regulations on notification of set-up of sales e-commerce websites;

dd/ Violation of regulations on registration of e-commerce service provision websites;

e/ Violation of regulations on rating and certification in e-commerce;

g/ Violation of regulations on protection of personal information in e-commerce;

h/ Violation of regulations on payment safety in e-commerce;

i/ Non-compliance with requests of competent state agencies conducting inspection and examination in accordance with law;

k/ Continued operation after having their registrations for provision of e-commerce services terminated, for traders and organizations;

l/ Continued operation after having their registrations terminated or being deregistered or having their licenses for rating, supervision and certification in e-commerce invalidated or revoked;

m/ Violation of other provisions of this Decree.

2. In addition to the administrative sanctions, management agencies shall consider the nature and severity of violations of traders and organizations to issue decisions to stop operation, deprive of the right to use licenses or deregister e-commerce service provision websites for violations specified in Clause 1 of this Article.

3. In case traders, organizations or individuals commit violations, causing damage to material interests of other traders, organizations or individuals, they shall pay compensations in accordance with law.

4. Principles, statute of limitations and procedures for sanctioning administrative violations in e-commerce comply with the Law on Handling of Administrative Violations and relevant documents.

5. The Inspectorate of the Ministry of Industry and Trade, the market management office, inspectorates of provincial-level Industry and Trade Departments and other state agencies may sanction administrative violations in e-commerce according to their competence provided in the Law on Handling of Administrative Violations and relevant documents.

Chapter VII

IMPLEMENTATION PROVISIONS

Article 79. Effect

1. This Decree takes effect on July 1, 2013.
2. This Decree replaces the Government's Decree No. 57/2006/ND-CP of June 9, 2006, on e-commerce.
3. E-commerce websites set up and operating before the effective date of this Decree shall make announcements or registrations under this Decree within 90 (ninety) days from the effective date of this Decree.

Article 80. Implementation responsibility

1. The Ministry of Industry and Trade shall guide and examine the implementation of this Decree.
2. Ministers, heads of ministerial-level agencies, heads of government-attached agencies, and chairpersons of provincial-level People's Committees shall implement this Decree.-

On behalf of the Government
Prime Minister
NGUYEN TAN DUNG

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