

Highlighted new points of Law on Protection of Consumers' Rights

By Vision & Associates

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Law on Protection of Consumers' Rights No. 19/2023/QH15 has been passed by the National Assembly on 20 June 2023 ("**CRPL 2023**"). The CRPL 2023 shall take effect on 1 July 2024. Accordingly, Law on Protection of Consumers' Rights No. 59/2010/QH12 ("**CRPL 2010**") shall expire on 1 July 2024, except for the cases specified at Point a, Clause 1, Clause 2, Article 80 of the CRPL 2023.

Compared with the CRPL 2010, the CRPL 2023 has a number of new regulations, specifically as follows:

1. **Applicable subjects:**

The CRPL 2023:

- (a) has added a group of subjects, consisted of the Vietnam Fatherland Front and socio-political organizations to applicable entities; and has concurrently clarified that social organizations participating in the protection of consumers' rights and interests include socio-political-professional organizations, social organizations, and socio-professional organizations;
- (b) has expressly defined: "*Consumer means a person purchasing or using goods and services with the aim of consumption for living purposes and for non-commercial purposes.*" Thus, as long as the purpose of purchase and use is related to commercial purposes, the relevant subject will not be considered a consumer according to the CRPL 2023;
- (c) has supplemented influential persons who are experts, reputable people, people being noticed by society in specific fields, industries and professions according to the Government's regulations to accurately identify responsibilities of these persons in protecting the rights and interests of consumers;
- (d) has clearly identified organizations and individuals doing business in cyberspace (including: Organizations and individuals trading in products, goods and services through self-established information systems or digital platforms; and Organizations establishing and running an intermediary digital platform) to expressly define responsibilities of these subjects in the process of performing transactions with consumers; and
- (e) has added a group of subjects related to multi-level selling activities (including multi-level selling organizations and individuals) to bind the responsibility of this group of subjects related to multi-level selling activities in protecting the rights and interests of consumers.

2. **Rights and obligations of consumers:**

The CRPL 2023 adds a number of new rights of consumers such as:

- (a) Being facilitated to choose a healthy and sustainable consumption environment;
- (b) Being entitled to request organization or negotiation assistance to resolve arising disputes; and
- (c) Being protected when using public services in accordance with the CRPL 2023 and other relevant laws.

Concurrently, the CRPL 2023 also adds a number of consumer obligations such as:

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- (a) Complying with *(the CRPL2010 requires the correct and complete implementation)* the conditions and instructions for transportation, storage and use of products, goods and services; regulations on inspection, environmental protection, sustainable consumption according to the provisions of the laws; and
- (b) Being responsible for providing inaccurate or incomplete information related to transactions between consumers and business organizations and individuals as prescribed by law.

3. Responsibilities of business organizations and individuals towards consumers:

The CRPL 2023 adds a number of new provisions such as:

- (a) Responsibility to ensure safety, measurement, quantity, volume, quality, use of products, goods and services sold or provided to consumers;
- (b) Liability for providing services that are not in accordance with the registered, announced, published, displayed, advertised, introduced, signed, committed contents;
- (c) Responsibility for protecting consumer information, whereby:
 - (i) A business organization or individual's authorization to or engagement of a third party to collect, store, use, modify, update or destroy consumer information must obtain the customer's consent; and this authorization or engagement must be made in writing, clearly specifying the scope and responsibilities of each party in protecting consumer information.
 - (ii) Unless otherwise provided for by law, business organizations and individuals that collect, store and use consumer information must develop information protection rules that are generally applicable to consumers with the following contents:
 - Purpose of information collection;
 - Scope of information use;
 - Information retention period; and
 - Measures to protect information, ensure consumer's information safety.
 The above-mentioned rules must be publicly displayed by business organizations or individuals in a conspicuous position at their headquarters and business locations, and posted on websites and application software (if any), creating conditions for consumers to access prior to or at the time of information collection;
- (d) Clarifying the warranty re-calculation period in case of product and goods renewal; supplementing regulations on responsibility for receiving and handling consumers' reflections, requests and complaints; and
- (e) Clearly defining responsibilities for the recall of defective products and goods with regard to two groups of defective products and goods, including:
 - (i) Group A is consisted of products and goods capable of causing damage to the life and health of consumers; and
 - (ii) Group B is consisted of products and goods capable of causing damage to consumers' property.

4. Remote transaction:

Remote transaction is a term that first introduced in the CRPL 2023. Previously, in Decree No.99/2011/ND-CP dated 27 October 2011, providing guidelines for the CRPL 2010 only provided for remotely-signed contracts.

According to the CRPL 2023, remote transaction means a transaction made through the network, by electronic means or other means that consumers are not allowed to check, come into direct contact with products and services before participating in the transaction, specifically:

- (a) Remote transaction forms

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- (i) Via telephone; other forms of communication and conversation; or
- (ii) Through cyberspace.

(b) Information to be provided

Business organizations and individuals must accurately and fully provide consumers with the following information:

- (i) Name, address, phone number, other contact method (if any) of the business organization or individual or of the representative of such organization or individual doing business in Vietnam (if any);
- (ii) Enterprise registration certificate number or enterprise code or other equivalent document for economic organizations; personal tax identification number for individuals;
- (iii) Measurement, quantity, volume, quality, utility, price, source, origin, shelf life of products, goods and services;
- (iv) Delivery costs (if any);
- (v) Method and term of payment; time, place and method of selling and providing products, goods and services; conditions and methods of exchanging and returning products, goods and services;
- (vi) Effective time of the proposal for transacting;
- (vii) Information about fees, costs, value-added tax, methods of charging, possible costs and general trading conditions applied in the supply of products and goods, services to consumers;
- (viii) Details of utility; usage; warranty of products, goods and services;
- (ix) Consumer's rights;
- (x) Process of handling the exchange, return of products, goods, services or termination of performance of the signed contract; and
- (xi) Process of receiving and resolving consumer reflections, requests and complaints.

(c) Contents of the contract

A remote transaction contract needs to contain the following contents:

- (i) Information that business organizations and individuals must provide accurately and completely to consumers mentioned above; the consumer's name, address, telephone number, other way of contact; and
- (ii) Rights and obligations of the parties. In case where there are many parties participating in the performance of a contract, the content of the contract must clearly identify the subject, rights and obligations of each subject.

(d) Manners of dealing with inaccurate or incomplete information provided

In case where a business organization or individual provides inaccurate or incomplete information as prescribed, consumers have the rights:

- (i) To reach an agreement on selecting the method of handling the contract; or
- (ii) To unilaterally terminate the contract within 30 days and notify the business organization or individual thereof; without payment of costs in any form to terminate the contract, except for the cost of the used products, goods and services.

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In case where the consumer selects to unilaterally terminate the performance of the contract, the business organization or individual must refund the consumer the paid amount corresponding to the unused portion of products, goods or services within 30 days from the date on which the consumer unilaterally terminates the performance of the contract. If this time-limit has passed, business organizations and individuals must pay interest on the amount of late payment at the interest rate agreed upon by the two parties or in accordance with civil laws. Refund is made according to the method in which the consumer paid, unless the consumer agrees to refund by another method.

5. Sustainable production and consumption:

The CRPL 2023:

- (a) supplements the concept of "*Sustainable consumption*", which is the effective use of products, goods and services to meet the purposes of consumption and daily life of individuals, families, agencies and organizations, while minimizing negative environmental impacts; and
- (b) supplements regulations on the responsibilities of ministries, ministerial-level agencies and People's Committees at all levels in promoting sustainable production and consumption.

6. Protecting the rights and interests of vulnerable consumers:

The CRPL 2023 clearly identifies vulnerable consumer groups, including:

- (a) Elderly people;
- (b) Persons with disabilities;
- (c) Children;
- (d) Ethnic minority people;
- (e) People living in ethnic minority and mountainous areas, islands, areas with difficult socio-economic conditions, areas with extremely difficult socio-economic conditions as prescribed by law;
- (f) Women who are pregnant or nursing a child under 36 months of age; and
- (g) Persons suffering from serious diseases and members of poor households as prescribed by law.

Accordingly, in order to strengthen the protection of vulnerable consumers' rights and interests, the CRPL 2023 stipulates a number of specific responsibilities of business organizations and individuals, of which the most prominent is the responsibility to apply a mechanism to deal with complaints and disputes according to the provisions of the laws suitable to each vulnerable consumer.

7. Prohibited acts:

The CRPL 2023 also adds a number of prohibited acts, including those prohibited for business organizations and individuals; business organizations and individuals that set up, operate and provide digital platform services, such as:

- (a) Failing to notify consumers of, failing to publicize to consumers the sponsorship of an influencer in any form to use his or her image, advice, or recommendations to promote trade or encourage consumers buy and use products, goods and services;
- (b) Preventing consumers from inspecting products, goods or services, unless otherwise provided for by law; and

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- (c) Requiring consumers to purchase more products, goods or services as a mandatory condition for entering into a contract against the will of the consumer.

In particular, the CRPL 2023 further prohibits multi-level selling organizations and individuals to perform the following additional acts:

- (a) Forcing others to deposit, pay money/ buy certain goods to participate in multi-level selling;
- (b) Providing false information, confusing consumers and individuals participating in multi-level selling;
- (c) Not having certificate of registration of multi-level sale or certificate of registration of multi-level sale activities;
- (d) Doing multi-level business with other services/forms, which are not the purchase and sale of goods, unless otherwise provided for by law;
- (e) Developing a multi-level sales network that is not based on the purchase and sale of goods;
- (f) Committing prohibited acts in the protection of consumers' rights and interests.

8. Indemnity:

- (a) In general, the CRPL 2023 stipulates that business organizations and individuals have the responsibility to compensate for damage in case where the defective products or goods supplied by them cause damage to life, health and property of consumers, even if such organizations or individuals are unaware of or not at fault in the arising of defects, except for cases where they are exempt from liability for damage compensation according to the laws.
- (b) The CRPL 2023 adds the parties acting as a commercial intermediary with products and goods (including representatives of traders, commercial brokers, goods purchase and sale entrustment, and commercial agents) to the entities responsible for compensating customers for damage.

In case where the remaining entities (including organizations and individuals that are producers, importers, the parties acting as a commercial intermediary, etc.) cannot be identified, the party directly supplying products and goods to consumers shall be responsible for compensating consumers for damage. If more than one identified business organization or individual concurrently cause damage, the parties must jointly bear compensation for the damage to consumers.

- (c) Regarding cases of exemption from liability for damages, the CRPL 2023 stipulates that the organizations and individuals will be exempt from responsibility to compensate for damage when:
 - (i) It is proved that defective products or goods cannot be detected with the world's scientific and technological level up to the time the products or goods cause damage;
 - (ii) All measures related to liability for defective products and goods and recall of defective products and goods have been applied; and consumers have fully received information but still intentionally use defective products or goods, which cause damage; and
 - (iii) Other cases as stipulated by law.

Meanwhile the CRPL 2010 only stipulated a single case when it is proved that the defective goods cannot be detected with the scientific and technical level at the time the goods are supplied to the consumer.

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9. Dispute resolution methods:

- (a) Like the CRPL 2010, according to the CRPL 2023, disputes arising between consumers and business persons will be resolved through one of the following forms: (i) Negotiation, (ii) Mediation, (iii) Arbitration, and (iv) Court.
- (b) However, the CRPL 2023 specifies certain cases where negotiation and mediation cannot be applied, including:
 - (i) Infringing upon the interests of the country, national interests, and the public interests;
 - (ii) Violating the prohibition of the laws/ Being contrary to social ethics; and
 - (iii) Causing damage to the interests of many consumers, unless the specific number of consumers affected can be determined.

Meanwhile, the CRPL 2010 only stipulated a single case when a dispute causes damage to the interests of the State, the interests of many consumers, or public interests.

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