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## VIETNAM'S DRAFT E-COMMERCE LAW ELEVATING IP ENFORCEMENT AND PLATFORM ACCOUNTABILITY

### OVERVIEW

More than a decade after Decree No. 52/2013/ND-CP, as amended by Decree No. 85/2021/ND-CP (together, "Decree 52"), Vietnam's e-commerce regime is under strain from counterfeit trade, weak seller traceability, and fast-moving formats such as livestreaming and affiliate marketing. To modernize the framework, the Ministry of Industry and Trade (MOIT) has released the 2025 Draft E-Commerce Law ("Draft Law") for consultation, with submission to the National Assembly currently anticipated for the 10th session in October 2025. From an intellectual property perspective, the Draft Law pivots from a primarily registrational model to a more granular, accountability-based regime that reaches platforms, sellers, and key supporting services across the transaction chain.



## FUNCTIONAL PLATFORM CLASSIFICATION

Decree 52 drew a simple distinction between first-party selling sites and e-commerce service providers. The Draft Law adopts a functional classification that includes direct business platforms, intermediary platforms, social networks with e-commerce features, and multi-service integrated platforms. This taxonomy is intended to match obligations to technical capabilities and commercial models, allowing IP-relevant controls—such as tailored vetting and screening—to be calibrated to how goods are listed, promoted, and fulfilled. The text has not yet set out clear thresholds for hybrid operations that blend first-party retail, marketplace services, and social commerce, leaving classification and compliance scoping uncertain for complex models.

## STRONGER OPERATOR OBLIGATIONS: KYBC, PRE-SCREENING, 24-HOUR REMOVALS

The Draft Law expands operator responsibilities beyond registration and post-facto moderation. Platforms must verify the identity of all sellers, including foreign vendors, a prerequisite for credible IP enforcement and deterrence. Documentary standards for verifying foreign entities remain to be specified, which will matter for cross-border counterfeiting and jurisdictional reach. The Draft Law also moves toward proactive risk control by requiring automated pre-display screening of seller content and continued removal of unlawful material within 24 hours upon competent authority request. Effective implementation will depend on clear rules for detecting brand misuse, repeat-infringer policies, and escalation channels for rights holders.

## LIVESTREAM AND AFFILIATE ENFORCEMENT CONTROLS

Livestream selling and affiliate marketing—previously outside Decree 52—are expressly regulated. The Draft Law recognizes the role of influencers and KOLs in directing traffic to unverified or infringing goods and imposes obligations on both promoters and platforms. Operators must implement real-time monitoring, age-appropriateness warnings, and the capability to terminate non-compliant streams. For rights holders, these measures open a pathway to address trademark misuse and deceptive claims during live promotions; for platforms, they necessitate enforceable terms with creators and responsive tooling to act on rights-holder alerts mid-stream.

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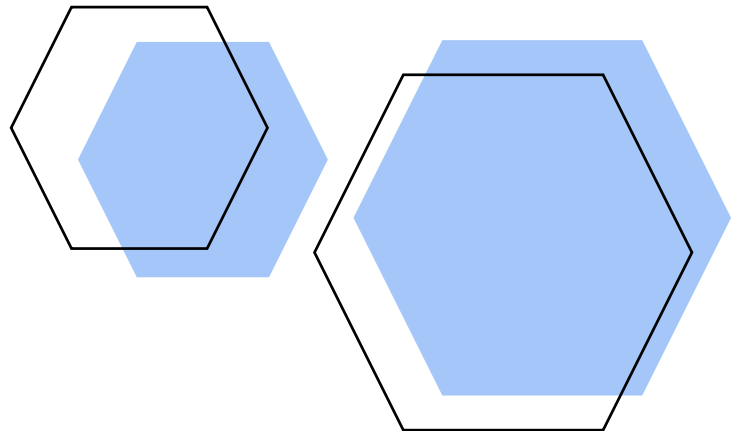


## JOINT LIABILITY FOR LOCAL REPRESENTATIVES

Existing jurisdictional triggers for foreign platforms targeting Vietnam are retained, but the enforcement mechanism is strengthened. The Draft Law provides that the appointed local representative may bear joint liability for the platform's compliance with Vietnamese law. This approach seeks to close gaps that have hindered effective action against offshore operators dealing in counterfeit or pirated goods. From an IP standpoint, joint liability can improve the practical enforceability of takedown orders, evidence preservation, and collection of remedies, while placing greater emphasis on the selection and oversight of the representative entity.

## REGULATED LOGISTICS, PAYMENTS, AND INFRASTRUCTURE

Where Decree 52 offered only general references to supporting services, the Draft Law defines and regulates technical infrastructure, logistics, payment, and electronic contract authentication providers. These actors are drawn into coordination duties with platforms and authorities and are expected to establish internal controls. For IP enforcement, this integrated approach acknowledges that counterfeit commerce depends on fulfillment and payments as much as on listings. Logistics providers may be required to cooperate in interdictions and share shipment data; payment intermediaries may need to support merchant vetting and restrict proceeds from infringing sales; infrastructure providers may be called upon to support repeat-infringer regimes.





## ALGORITHM DISCLOSURE WITH TRADE-SECRET SAFEGUARDS

For the first time, authorities may request disclosure of information about platform algorithms—logic, design, and modeling—during violation inspections. While aimed at transparency and abuse prevention, this raises material IP and trade secret concerns because recommendation, ranking, image-matching, and fraud-detection systems are core proprietary assets. Any implementing guidance should narrowly tailor disclosure to necessity, include strict confidentiality safeguards and access protocols, and consider independent audit or certification alternatives that meet supervisory objectives without exposing protected know-how.

## CONCLUSION

The Draft Law signals a comprehensive, accountability-driven framework that extends beyond listing interfaces to payments, logistics, livestreaming, and data handling. Businesses operating in or into Vietnam should begin aligning governance and technical controls now. Priorities include formal KYBC standards for domestic and foreign sellers, scalable notice-and-takedown with pre-display screening, documented repeat-infringer and offboarding policies, livestream and affiliate enforcement playbooks, coordination procedures with logistics and payment partners, and a defensible, confidentiality-preserving position on potential algorithm disclosures. Early alignment will reduce exposure and support sustained regulatory confidence as Vietnam's e-commerce market continues to mature.

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