Author

Quynh Lien Nguyen
Associate
ZICO Law Vietnam
quynh.lien.nguyen
@zicolaw.com

Vietnam releases new Decree on Commercial Promotion

Vietnam's guidelines on commercial promotional activities received an update in May earlier this year. Decree No. 81/2018/ND-CP ("Decree No. 81") replaces its predecessor, Decree No. 37/2006/ND-CP ("Decree No. 37") in outlining the do's and don'ts of commercialising one's business.

While the types of promotional activities under Decree No. 81 remain mostly unchanged from its predecessor, Decree No. 37, this new guideline under Decree No. 81 does impose several new regulations on commercial promotional activities as follows:

Matter	Decree No. 37	Decree No. 81
Entities covered	The applicable entities include: (a) Business entities directly conducting commercial promotion activities and business entities engaged in the business of the commercial promotion activities; (b) Organizations with commerce-related activities and entities with the right to conduct the commercial promotion activities; and Individuals conducting commercial activities independently and regularly (without being required to register their business) and being permitted to conduct the commercial promotion activities.	Entities covered includes nearly all regulated entities under Decree No. 37 with further clarification on "business entities conducting promotions" and "business entities directly organizing trade fairs and exhibitions". Business entities conducting promotions comprise of the following: (a) Business entities engaging in manufacturing or trading goods or services directly conducting a promotion or conducting a promotion via other business entities being as distributors (wholesalers, retailers, agents, franchisees or other lawful distributors); and (b) Business entities engaging in the business of promotional services and conducting promotions of goods and services of other business entities under agreements entered into with the latter. Business entities directly organizing trade fairs and exhibitions comprise of the following: (a) Business entities engaging in the organisation of trade fairs and exhibitions or arranging the same for other business entities, organizations, and individuals participating in the trade fairs and exhibitions; and Business entities directly organizing or hiring other business entities to organise trade fairs and exhibitions for only their (the former) products or services.

Principles for conducting promotions	N/A.	Entities conducting promotions are not allowed to impose conditions that entitle consumers to receive such promotions only if they give up, refuse or change products and services of other business entities or organisations as a requisite requirement.
Notification requirement (applicable to contest-based promotions)	Businesses that intend to adopt contests as a form of promotion (attached to selling products or providing services) are required to give notice to the competent authorities. Such notice must include details of the promotion such as promoted products or services, and products or services used for the promotion, components of prizes, and total value of prizes in the promotion.	Businesses that wish to adopt contests as a form of promotion (attached to selling products or providing services) are NOT required to notify the competent authorities per the outline provided under Decree No. 37 unless the total value of the prize during such promotion is 100 million Vietnamese dong or more.

If you have any questions or require any additional information, please contact Quynh Lien Nguyen or the ZICO Law partner you usually deal with.

This alert is for general information only and is not a substitute for legal advice.