

E-COMMERCE PRICE WAR

“Grand sale!” “Flash sale!” “50% off!” “was 250k, now 25k”!

They are catchy slogans frequently used in promotional campaigns of brand owners.

Nowadays, competition is more intense than ever, not only among offline and online sellers on a marketplace but also among e-commerce platforms.

The diversified promotional campaigns play an effective role in helping companies attract customers, boost sales, and enhance brand visibility. They are also strategies that companies use to eliminate competition and secure their market shares.

However, the line between the legal and the illegal seems so thin. For years, the Government has attempted to regulate e-commerce promotion in order to foster a healthy environment and competitiveness of e-commerce businesses.

Vietnam has the first time introduced the regulations on trade promotion in 1999 and thereafter amended from time to time. The prevailing one is Decree No. 81/2018/ND-CP which has recently been updated by Decree No. 128/2024/ND-CP, taking effect from 1 December 2024 (“**Decree 128**”).

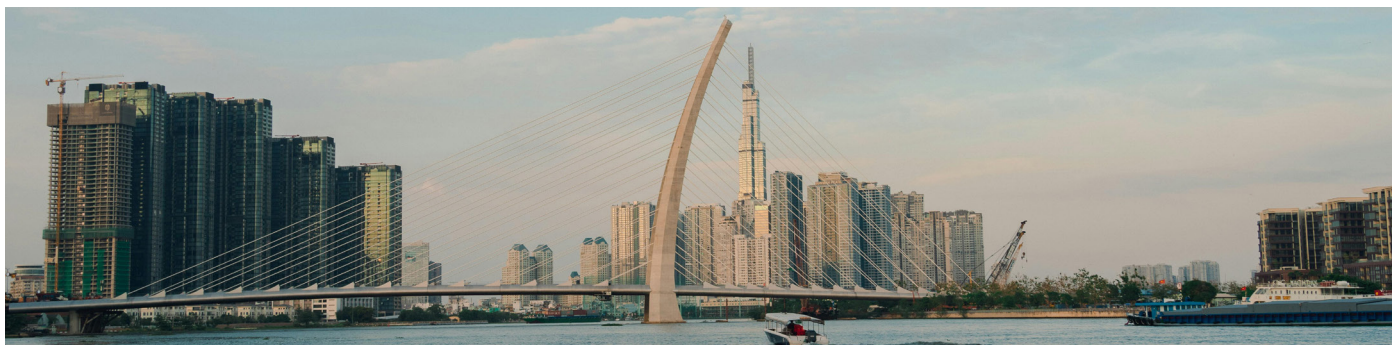
Here are some key highlights of Decree 128.

Emphasizing and elaborating the value cap for promotional goods/services

In general, the value cap applicable to promotional goods/services remains at 50%, in particular:

- Value of goods or services used for promoting one unit of another good or service (“**promoted goods or services**”) shall not exceed 50% of the selling price of one unit of the promoted goods or services immediately before the promotion period.
- The total value of goods or services used for promoting the promoted goods or services within a promotion program shall not exceed 50% of the total value of the promoted goods or services.





The above limits will be determined based on “the selling price” of the promoted goods and services “immediately before the promotion period” as further clarified under Decree 128.

Hence, catchy slogans such as “was 250k, now 25k” may draw negative attention from the State unless they fall within the permitted exemptions.

Exemptions from value cap

Decree 128 still allows traders to bypass the value cap under certain circumstances, such as organizing cultural events for clients, offering free samples, or promoting goods and services within the concentrated promotional programs held by the State.

Abolishing certain notification procedures

Under Decree 128, traders, who plan to do the following promotion programs, may be exempted from notification to the local Department of Industry and Trade:

- Organizing cultural, artistic or entertainment programs or other events for customers for the purpose of sales promotion;
- Offering sample goods or services free of charge; offering goods or services as gifts; offering goods or services at discounted prices; offering goods or services together with coupons;

- (i) Offering goods or services with raffle tickets for customers, according to which winners will be selected according to the announced rules and prizes or (ii) organizing a loyalty program where rewards for customers are based on the quantity or value of goods and services purchased, *provided that the total prize value will be less than VND100 million.*
- Only implementing the following activities with respect to goods or services offered through e-commerce platforms: (i) offering goods or services with raffle tickets for customers, according to which winners will be selected according to the announced rules and prizes or (ii) organizing a loyalty program where rewards for customers are based on the quantity or value of goods and services purchased.



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RHTLaw Vietnam

For further information, please contact:



Benjamin Yap (Mr.)

Senior Partner
Ho Chi Minh City Office
Tel. (+84) 28 3820 6448
benjamin.yap@rhtlaw.com.vn



Dang Thi Tuong Vi (Ms.)

Partner
Ho Chi Minh City Office
Tel. (+84) 28 3820 6448
vi.dang@rhtlaw.com.vn

RHTLaw Vietnam - Ho Chi Minh City Office

Suite 1101, 11th Floor, Sofitel Central Plaza
17 Le Duan Boulevard, District 1,
Ho Chi Minh City, Vietnam
Tel: +84 28 38206 448

RHTLaw Vietnam – Hanoi Branch

Unit 1501B, 15th Floor, Charmvit Tower
117 Tran Duy Hung Street, Cau Giay District,
Hanoi, Vietnam
Tel: + 84 24 3974 8881

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