

Chapter 7

Policy Environment for E-commerce Connectivity in Viet Nam

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Policy Environment for E-commerce Connectivity in Viet Nam

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1. Background

Viet Nam is transforming its growth model from a centrally-planned economy to a market economy. After more than 30 years of renewal, Viet Nam maintains the state-owned sector and gives privileges and benefits to state-owned enterprises; 85% of the gross domestic product (GDP) is based on trade. Viet Nam actively builds regional solidarity, promoting and strengthening the Association of Southeast Asian Nations' (ASEAN) position. Whilst digital technology is paving the way for domestic and foreign businesses to enter each other's markets through joint ventures and global value chains, Viet Nam's business environment – in the broadest sense, both real and virtual environments – is still a barrier to connectivity amongst domestic and regional enterprises and to regional value chains and the creation of a regional competitive platform (Grant Thornton, 2018; Hoa and Yen, 2016).

Specifically, Chen (2017) and OECD (2017) consider e-commerce connectivity in four layers: information flow, logistics, cash flow, and integration. They point out that the development of cross-border e-commerce will need smooth connectivity in both the cyberspace and the physical world, as well as the efficient online-offline linkages. To unleash the potentials of the digital economy, it is important for emerging Asian countries to solve those 'short slabs' in connectivity.

The Asian Development Bank Institute (ADBI) (2014) also points out that connectivity is crucial to make ASEAN-based companies more competitive, including in production networks and agriculture-related supply chains. Efficient connectivity is important to ensure region-wide food security. Due to the presence of network externalities, benefits are larger when more areas are connected because the information technology (IT) revolution has made efficient communication central to economic and social life (ADBI, 2014).

For a competitive, innovative, and dynamic ASEAN, the ASEAN Economic Community (AEC) Blueprint 2025 ‘supports fair competition,..enhanced access to information for businesses, reaching out to relevant stakeholders through an enhanced regional web portal for competition policy and law, outreach and advocacy to businesses and government bodies, and sector-studies on industry structures and practices that affect competition’ (ASEAN, 2018). The blueprint also states ‘Establish regional cooperation arrangements on competition policy and law by establishing competition enforcement cooperation agreements to effectively deal with cross-border commercial transactions’ (ASEAN, 2018). Beyond reducing tariffs and non-tariff barriers as well as removing regulatory impediments to businesses, ASEAN governments are seeking ways to ensure a seamless flow of goods and services from the time they leave the suppliers to the time they reach the customers. Governments believe the digital economy will rapidly connect ASEAN businesses.

The four pillars of the AEC are (i) a unified production base and a common market with free movement of goods, services, skilled labour, and free flow of capital; (ii) an area of balanced economic development that will narrow the development gap and accelerate the integration of countries, especially the less-developed members, through regional and sub-regional cooperation; (iii) a highly competitive economic region; and (iv) a fully integrated economic region in the global economy.

Economic relations often greatly depend on the business environment of the member countries, which have different cultures, different economic institutions, and different levels of economic development, creating difficulties such as longer time needed for procedures and higher business costs. The top concerns of foreign investors are difficulty in forming local partnerships in ASEAN countries (49%), lack of legal clarity and rule of law (85%), political instability (50%), and lack of skilled labour (33%); one-third of foreign investors surveyed do not think the AEC has helped their company expand in the region (Singapore Institute of International Affairs, 2017). Domestic policies, a lack of a coherent digital strategy, inadequate infrastructure, and weak connectivity within and between countries pose challenges to achieving the AEC’s goals.

This chapter applies Chen (2017)’s analytical framework to examine Viet Nam’s e-business legal environment. It provides insights and policy recommendation from the following four aspects: (i) how to enable e-commerce connectivity; (ii) the current state of e-commerce connectivity; (iii) e-commerce connectivity weaknesses, problems, and challenges; and (iv) the Vietnamese government’s strategy/plan to solve these problem, taking into account possible regional and sub-regional cooperation efforts as well.

2. Literature Review

WTO (2013: 2) defines e-commerce as ‘the sale or purchase of goods or services, conducted over computer networks by methods designed for the purpose of receiving or placing of orders’. The goods or services are ordered by those methods, but the payment and the ultimate delivery of the goods or services do not have to be conducted online. An e-commerce transaction can be between enterprises, households, individuals, governments, and other public or private organisations. To be included are orders made over the web, extranet or electronic data interchange. The type is defined by the method of placing the order. To be excluded are orders made by telephone calls, facsimile or manually typed e-mail.

As the cost of international trade is reduced, consumers look beyond national borders for the best online deals. Cross-border e-commerce involves goods and services delivered from a supplier in one country to a consumer in another country. In the services trade, cross-border e-commerce also brings new business opportunities. Online software and app markets such as App Store and Google Play help deliver digital products from business developers to billions of smart devices. E-commerce helps businesses scale up and expand their outreach by (i) building an international reputation; (ii) expanding outreach as it lowers the threshold required for a company to become visible in the global market, because once the number of users surpasses a certain threshold, the marginal cost of attracting newcomers to a website is minimal; (iii) reducing market research costs thanks to big data; (iv) dis-intermediating in international trade as a business can ship goods directly to the end user; and (v) leveraging e-commerce ecosystems with matchmaking services.

The business community alone cannot create e-commerce connectivity nation- and region-wide. E-commerce connectivity ‘is fourfold: (i) smooth exchange of data and information (connectivity for information flow), (ii) delivery of goods and services (logistics connectivity), (iii) payment (connectivity for cash flow), and (iv) seamless links between the virtual and physical parts of e-commerce network (integrating connectivity)’ (Chen, 2017: 11).

According to ITC (2016), a company can build up capacity in e-commerce through effort on three groups of factors. First, fitness of products and services that match all criteria in adopting e-commerce to access markets. Second, access to technology (since e-commerce international competitiveness requires the company to access state-of-the-art technology to create an online presence and offer electronic payment). Third, knowledge and skills, including (i) language skills to access foreign markets and (ii) computers and Internet and related technologies to ensure security to prevent fraud, information leaks, and all forms of attack that can undermine foreign consumers’ confidence.

However, it will be difficult for individual enterprises to affect some other factors, especially the regulatory framework that rules technical communications and interconnectivity standards, legality and modality of digital signatures, certification and encryption, as well as disclosure, privacy, online content, and tax policies. In principle, the market will desire those rules that provide adequate e-commerce standards, and easy to use.

Eifert, Gelb, and Ramachandran (2005) define the business policy environment as ‘a group of policies, institutions, physical infrastructure, human resources and geographic features that affect the effectiveness of different enterprises operating in them’. At the enterprise level, the business environment might affect the cost of production, whilst at the industry level it can affect market structure and competitiveness (Eifert, Gelb, and Ramachandran, 2005). Deficiencies in the law protecting intellectual property rights, or a weak policy framework, can result in massive losses that may strip an e-commerce business down to nothing. In this regard, e-commerce policy is a legal tool to protect and guide the business owner and create a safe business environment. Entities participating in e-commerce must comply not only with direct regulations on e-commerce but also with relevant business investment, commercial, and civil laws. Therefore, developing and improving the e-commerce legal system is an urgent need.

3. Data

In this chapter, primary data were collected via surveys of 132 consumers; 61 e-commerce and traditional enterprises; and 18 experts, including 5 policymakers. Amongst the 18 experts, 5 were ministry officials and 5 were leaders of Vietnamese and foreign enterprises, and 3 were policymakers and policy reviewers (research institutes, chambers of commerce and industry). The surveys were conducted using questionnaires and direct interviews.

Secondary data were from (i) surveys of small and medium-sized enterprises (SMEs) conducted by the Central Institute for Economic Management (CIEM), Ministry of Planning and Investment (MPI), UNU-WIDER, and Institute of Labour and Social Sciences (ILSSA); (ii) Viet Nam logistics reports prepared by the Ministry of Industry and Trade; (iii) the Vietnam E-commerce Index prepared by the Vietnam E-commerce Association; (iv) business statistics published by Viet Nam’s General Statistics Office; and (v) the provincial competitiveness assessment (PCI) by the Vietnam Chamber of Commerce and Industry (VCCI).

4. E-commerce Connectivity in Viet Nam

In Viet Nam, e-commerce activities are regulated by Decree 52/2013/ND-CP and Circular 47/2014/TT-BCT. The Ministry of Industry and Trade is the direct management agency. Due to its unique political-economic system, entrepreneurs in Viet Nam are facing a ‘forest of regulations’ -- more than 5700 administrative conditions imposed by either the central government or various ministries and agencies. To obtain necessary license(s) of doing business, it will need to go through lengthy administrative procedures. This is certainly not a positive factor to promote e-commerce. For that reason, Jack Ma, the former CEO of Alibaba, a Chinese giant e-commerce platform, once argued that ‘Vietnam needs high-speed Internet, and administrative procedures need to be sped up as well’ (Huyen, 2017).

4.1. Connectivity for Information Flow

4.1.1. Market structure

Currently, there are four major network operators in Viet Nam: (i) Vietnam Posts and Telecommunications Group (VNPT); (ii) Corporation for Financing and Promoting Technology (FPT); (iii) Military Telecommunications Group (Vietel), a 100% state-owned defence economic enterprise run by the Ministry of Defence; and (iv) Vietnam E-Commerce Association (VECOM), which is a non-governmental organisation of businesses, organisations, and individuals directly conducting e-commerce, developing e-commerce applications or conducting research on or providing e-commerce services.

VNPT is the largest state-owned economic group specialising in investment, production, and business in posts and telecommunications. It entered the market first. In 1997, it was assigned by the government to build a backbone network connecting the national and international Internet. So far, VNPT’s fibre-to-the-home (FTTH) optical cable network has covered 97% of communities nationwide. VNPT fixed broadband service accounted for nearly 50% of the domestic market. It also engages in operating Viet Nam’s first two satellites, Vinasat-1 and Vinasat-2.

FPT is the largest IT services company whose main business is providing IT-related services in Viet Nam. FPT’s network is now top-rated and provides Internet Protocol version 6 (IPv6). By the end of 2017, FPT had completed visualising infrastructure in Hanoi, Ho Chi Minh City, and some major cities and provinces, completing the upgrade of bandwidth for individual customers and enterprises. FPT actively researched and launched additional services for the virtualisation transformation of enterprises, such as hiring virtual servers and providing cloud computing service HI GIO Cloud.

Broadband ADSL first appeared in Viet Nam in 2003. Since then, the number of Internet users has increased nearly seven-fold, accounting for one-fourth of the total population by the end of 2009. The launch of 3G in late 2009 and the deployment of 4G service in 2016 further stimulated the market booming. However, the study by Akamai shows that by the end of 2015, Viet Nam still had low-than-the-average Internet connection when compared to others (Tinh, 2016).

4.1.2. Regulatory Framework

In 2005, the National Assembly approved three laws that lay down the legal basis for e-commerce: Commercial Law, Civil Code, and Law on E-Transactions. In addition, E-commerce activities and the related dispute settlement are subject to the Law on Information Technology in 2006, Telecommunications Law 2009, Penal Code 1999 (amended and supplemented in 2009), Law on Consumer Protection in 2010, Advertising Law 2012, Investment Law 2014, and Enterprise Law 2014.

Tables 7.1 and 7.2 list the decrees related to e-commerce transactions and dispute settlements, respectively.

Table 7.1: Decrees in Regulating E-commerce Transactions

Decree	Issued date	Content
1) Decree No. 57/2006/ND-CP	9 June 2006	E-commerce
2) Decree No. 52/2013/ND-CP	16 May 2013	E-commerce (replacing Decree 57/2006/ND-CP)
3) Decree No. 26/2007/ND-CP	15 February 2007	Implementation of the Law on E-Transactions, Digital Signatures, and Digital Signature Certification Services
4) Decree No. 106/2011/ND-CP	23 November 2011	Amending and supplementing Decree No. 26/2007/ND-CP on Signatures and Signature Verification Services
5) Decree No. 170/2013/ND-CP	13 November 2013	Amending and supplementing a number of articles of Decree No. 26/2007/ND-CP, 15 February 2007, detailing the implementation of the Transaction Law Electronic Signatures and Certification Services and Decree No. 106/2011/ND-CP, 23 November 2011, amending and supplementing some articles of Decree No. 26/2007/ND-CP 15, February 2007
6) Decree No. 27/2007/ND-CP	23 February 2007	Electronic transactions in financial activities
7) Decree No. 35/2007/ND-CP	8 March 2007	Electronic transactions in banking activities
8) Decree No. 90/2008/ND-CP	13 August 2008	Anti-spam
9) Decree No. 77/2012/ND-CP	6 April 2011	Amending and supplementing Decree No. 90/2008/ND-CP on anti-spam
10) Decree No. 25/2011/ND-CP	5 October 2012	Detailing and guiding the implementation of a number of articles of the Telecommunications Law
11) Decree No. 43/2011/ND-CP	13 June 2011	Regulating the provision of online information and services on websites or electronic portals of state agencies
12) Decree No. 101/2012/ND-CP	22 November 2012	Non-cash payment; Decree No. 72/2013/ND-CP, 15 July 2013, on the management, provision, and use of Internet services and information on the Internet

Decree	Issued date	Content
13) Decree No. 154/2013/ND-CP	08 November 2013	Regulating information technology parks
14) Decree No. 181/2013/ND-CP	14 November 2013	Detailing the implementation of some articles of the Advertising Law
15) Decree No. 08/2018/ND-CP	15 January 2018	Revision of the decree relating to business investment conditions

Source: Author, based on government documents.

Notes: See Annex for official documents on the implementation of the listed decrees.

Table 7.2: Decrees in Regulating E-commerce Behaviours

Decree	Issued date	Content
1) Decree No. 158/2013/ND-CP	12 November 2013	Regulating sanctions for administrative violations in culture, sports tourism, and advertising
2) Decree No. 174/2013/ND-CP	13 November 2013	Regulating sanctions for administrative violations in posts, telecommunications, IT, and radio frequency
3) Decree No. 25/2014/ND-CP	7 April 2014	Regulating the prevention of and combat against crimes and other violations of law using hi-tech
4) Decree No. 185/2013/ND-CP	15 November 2013	Regulating sanctions for administrative violations in commercial activities, production, sale of counterfeit goods, prohibited goods, and protection of consumer interests
5) Decree No. 124/2015/ND-CP	19 November 2015	Amending and supplementing a number of articles of Decree No. 185/2013/ND-CP, 15 November 2013, on sanctions for administrative violations in trade, production, sale of counterfeit goods, prohibited goods, and protection of consumers' interests

Source: Author, based on government documents.

Notes: See Annex for official documents on the implementation of the listed decrees.

Decree 52/2013/ND-CP lists four e-commerce principles: (i) ensure free, voluntary agreement in transactions; (ii) determine the scope of business activities; (iii) define consumer protection and obligations; and (iv) deal in goods and services that are subject to conditional business. Investment and doing business in e-commerce is also subject to Investment Law 2014 and Enterprise Law 2014. There are no additional requirements or restrictions on online business.

Circular No. 47/2014/TT-BCT by the Ministry of Industry and Commerce provide guidance on the management of e-commerce websites in details based on Decree No. 52/2013/ND-CP. Websites that provide special services, such as those for finance, banking, credit, insurance, trade, exchange of money, gold, foreign exchange and other means of payment, online games, auction, social media, need to be registered and get approval before the operation. For instance, according to Circular No. 47/2014/TT-BCT, individuals are not allowed to trade in goods and services subject to business conditions;¹ entrepreneurs and

¹The business condition here is the limitation of business products. Article 3 of this circular states: 'Traders, organizations and individuals must not use e-commerce websites to trade in goods subject to restricted business: hunting rifles and shotguns, sport weapons, support tools; plants and wild animals, precious and rare wild animals, including living things and processed parts of them;

organisations may set up websites for trading in goods and services subject to conditional business, and must publish on their websites the serial number and date and place of issuance of certificates of satisfaction. Such goods or services must have business registration certificates. By 2016, there were 13,510 websites, up from 9,424 in 2015, and 93 online promotion websites and 20 online auction sites (Ministry of Industry and Trade, 2017).

Decree 08/2018/ND-CP published in 2018 loosened some conditions for establishing and managing e-commerce websites. It removed the requirements about the structure, features, and key information that the service providers need to post on the websites. Basically, organisations and individuals who have been granted individual tax codes are allowed to set up e-commerce websites with or without a valid domain name. The decree abolished the financial and technical requirements for traders and organisations providing e-contract authentication services as well.

Section 2 of Decree 52/2013/ND-CP contains eight articles to regulate contracts between online sellers and buyers. Regarding online dispute resolution, Article 76 of Decree No. 52/2013/ND-CP provides that e-commerce site owners may not unilaterally resolve disputes without the customer's consent. In practice, it is difficult to resolve online transaction disputes, especially the cross-border ones that involve high value and multiple parties. When a dispute occurs, enterprises often do not know how and to which legal agency to file complaints. Although Clause 3, Article 95 of Civil Procedure Code 2015 stipulates 'electronic data, electronic voucher, electronic mail, telegraph, facsimile and other similar forms in accordance with the law on e-transactions' are considered evidence,² there is no clear guidance how electronic records and evidence can be used in arbitration or court proceedings.

4.2. Logistics Connectivity

Viet Nam has joined a series of regional agreements that facilitate logistic connectivity, such as the Border Transport Agreement (1999), the Agreement Facilitating Transit Goods (1968), and the ASEAN Multilateral Transport Framework Agreement (2005). Logistics service providers in Viet Nam are required to abide by the international commercial terms or incoterms; implement credit agreements; take out cargo insurance; and follow rules on loading, unloading, storage, and delivery.

cigarettes, cigars and other finished drug products and assorted spirits; other goods restricted from trading as prescribed by law'.

²The E-transaction Law 2005 and Decree No. 52/2013 ND-CP on E-commerce are silent on this matter.

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Decree No. 160/2016/ND-CP, 29 November 2016, stipulates the business conditions relating to organisational structure, finance, and human resources. In line with international economic integration, Viet Nam made commitments on maritime transport services regulated by ASEAN and the World Trade Organization (WTO), commitments under the Trans-Pacific Partnership Agreement/Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and other new free trade agreements with the European Union, Korea, and the Asia-Europe Union, thereby creating a legal, equitable, and transparent environment for domestic and foreign shipping businesses.

The 2005 Commercial Law replaced the 1997 Commercial Law, in which the term 'logistics' was replaced by the previous term 'delivery service'. In 2005, Viet Nam amended the 1990 Maritime Code in line with international law. In 2006, Viet Nam officially recognised the Convention on Facilitation of International Maritime Traffic. At the same time, Customs Law, Credit Institutions Law, Insurance Law, as well as various laws on aviation, road, railroad, inland waterways were also established. Decree 140/2007/ND-CP regulates conditions for doing business in logistics services and limiting the liability of logistic service. Decree 163/ND-CP, which took effect on 20 February 2018, facilitates foreign enterprises' participation in e-logistics development.

4.2.1. Problems

The Ministry of Industry and Commerce business surveys on logistics and e-commerce show that although logistics and delivery services have grown rapidly since 2015, they still do not meet the demand from the fast growth of e-commerce. (Chien, 2018). In Viet Nam, the major difficulties in developing logistics and e-commerce come from three aspects: legal environment, market development, and human resources.

First, logistics administrative procedures are complex. It is not easy to meet government conditions, especially for small and micro business owners (Thao, 2018). Second, there are concerns how the development in logistics services can meet current and future e-commerce needs. In general, both hardware (ie. physical construction) and software (ie. planning and management) of logistics need to improve. For instance, it is difficult for some ports to maintain the required depth to accommodate 30,000 deadweight tonnage (DWT) vessels in some ports due to the high cost of dredging. Using many smaller vessels leads to congestion and waiting times up to 10 days, sometimes even 30 days or more. This results in even higher cost and lower efficiency. Moreover, some ship owners give 'tips' to authorities to receive priority, causing tip harassment and corruption.

In Viet Nam, logistics services are mainly concentrated in big cities such as Ho Chi Minh, Hanoi, Hai Phong, and Da Nang (Table 7.3). However, it is still quite limited for the majority of the population, who are living in the rural areas, to access logistics services.³ Ngan (2018) estimates that logistics costs account for 30% of e-commerce sales, higher than in many countries. The high cost of logistics and delivery services of tangible products is one reason why the online purchase price is not significantly lower than the traditional purchase price. Vietnamese carriers' capacity is low and connectivity between regions is not what it should be. E-commerce logistics is plagued by separate logistics services, legal traffic regulations are changeable, administrative procedures are complicated, qualified personnel and experience are lacking, and low technology application in e-logistics.

Table 7.3: Distribution of Logistics Enterprises by Province, 2017
(% total logistics enterprises)

Hanoi	Bac Ninh	Quang Ninh	Hai Phong	Binh Dinh	Da Nang	Dong Nai	Ho Chi Minh	Binh Duong	Ba Ria	Can Tho	Others
18.2	0.7	1.9	10.8	0.7	2.4	2.4	54.0	1.3	2.1	0.3	5.2

Source: Ministry of Industry and Trade (2017).

4.3. Connectivity for Cash Flow

More than 50% of Vietnamese uses the Internet and about 54% uses smart phones. This is a favourable condition for mobile payments, non-cash payments, and comprehensive financial services. Viet Nam is the 19th market where JP Morgan Chase Financial Group deployed Samsung Pay. It did so because (i) the government's policy direction is encouraging, (ii) the retail market is among the top-three destinations of investors in Asia, (iii) more than 110 million bank cards have been issued and that number is expected to increase to 150 million in 2018, and (iv) more people are using smart phones. By the end of June 2017, Viet Nam had about 48 million broadband mobile subscribers, including 3G and 4G.⁴

On 22 November 2012, the government issued Decree No. 101/2012/ND-CP on non-cash payment. On 11 December 2014, the Governor of the State Bank issued Circular No. 39/2014/TT-NHNN to guide the intermediate payment services stipulated in Decree 101/2012/ND-CP, 22 November 2013, on non-cash payment. Circular 39/2014/TT-NHNN clarifies the types of payment intermediary services and provides specific regulations on providing such services, including managing risk, ensuring safety and security, and

³ About 80% of the country's population lives in rural areas.

⁴ Interview with Mr. Nguyen Quang Hien Huy, deputy general director of Samsung Electronics Vina, on 6 November 2017.

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ensuring solvency. Intermediary service providers must (i) determine and implement risk management principles in e-banking; (ii) ensure safety and security of IT systems in banking activities, and security and confidentiality in the provision of e-banking services; and (iii) comply with regulations on the establishment, use, preservation, and storage of electronic vouchers in accordance with the law on e-transactions in banking activities.

Circular No. 47/2014/TT-BCT stipulates that companies with sales websites and social networking sites must register on the electronic trading platform, and social networking sites must manage the information and subscribers' activity. All e-commerce activities must be registered with the E-Commerce Department, Ministry of Industry and Trade. The tax office coordinates with the department to monitor enterprises and organisations that own websites providing e-commerce services, thereby reviewing cooperative contracts and agreements for tax collection. The tax authorities examine the documents related to the revenues and expenditures of these enterprises.

Through Decision No. 2545/QĐ-TTg, 30 December 2016, the Prime Minister approved a project to develop non-cash payment in 2016–2020 to diversify payment services and push up the application of electronic payment technology, especially in rural areas.

The State Treasury has been providing solutions to enhance non-cash payment in managing state budget revenues and expenditures. To ease tax payment and reduce cash transactions, the State Treasury has been coordinating since 2012 with four major commercial banks – Vietnam Industrial and Commercial Bank (Vietinbank), Bank for Investment and Development of Vietnam (BIDV), Bank for Agriculture and Rural Development (Agribank), Bank for Foreign Trade of Vietnam (Vietcombank) – to ensure that the payment system is stable and efficient from the central to the provincial and district levels. State budget taxpayers can use bank cards (debit cards) instead of cash to pay through point-of-sale (POS) equipment of commercial banks in State Treasury units. The taxpayer does not have to pay a fee.

Some commercial banks have deployed mobile payment services through fingerprint authentication, face recognition, biometrics, code usage, QR code, tokenisation, non-contact payment, and mobile POS (mPOS) technology.

Statistics of the Payment Department, the State Bank of Vietnam (SBV) show that Viet Nam has 41 commercial banks providing mobile payment services, which have been growing rapidly in volume and value. In the first 9 months in 2017, there were over 90 million mobile phone transactions with total value over VND423 trillion, increasing by 93% and 139% when compared to the respective figures in 2016.

The SBV has also approved 25 non-bank organisations to provide payment intermediary services, including e-wallet services via the Internet and mobile phones. On 23 October 2017, the through-banks-e-tax payment and 24/7 customs clearance program were piloted with five banks: Vietcombank, Vietinbank, BIDV, MBbank, and Techcombank.

Electronic payment services face many problems. The biggest one is how to convince consumers that payment is convenient and secure. Another is mobilising capital to invest in technical infrastructure to connect with partners such as banks, telecommunication companies, electricity providers, water providers, hospitals, schools, transport companies, among others.

Many consumers still do not know much about the new payment methods and keep spending in cash. Most people live in rural areas. Many do not have bank accounts: 6.2 million people do not have access to financial services, 2.2 million find them expensive, 2.3 million have difficulty opening an account, and 1.1 million have no faith in the financial system (VECOM, 2018).

The two most popular payment forms are remittances (88%) and cash on delivery (82%) (VECOM, 2018). Viet Nam's ratios of enterprises using cash on delivery (49%) and instalment payment at sale points (47%) are the highest in Southeast Asia. Most Vietnamese e-commerce businesses offer instalment payments to offline and online shoppers.

Financial data exchange is an efficient payment mode between regular business partnerships, allowing both parties to track the transaction value and clearing accounts. Viet Nam does not yet have all the conditions for such exchange: the network is scattered and at a technically low level. To pay each other, enterprises and businesses can use, in a limited way, the e-banking function on their websites in the same system. The most common method is to pay online at the payment card's website, but the use of online payment is still limited.

Aware that payment through intermediary services is a form of facilitating e-commerce transactions, the service provider delivers secure and smooth billing by seamlessly connecting banks to the payment gateway, but due to its weak technical infrastructure, Viet Nam is unable to deploy this service systematically. Instead of that situation, mobile payment is becoming increasingly popular (Huong, 2017).

The number of domestic online transactions increased by about 50% in 2017 over 2016 whilst transaction value increased by 75% (Quan, 2018). The most spectacular growth areas are online retail, online marketing, travel, and billing (VECOM, 2018). Online retail revenue growth increased by 35% in 2017. Revenue from delivery services grew from 62% to 200%.

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Some affiliate online marketing companies grew by 100%–200% in 2017. Booking through online travel agents accounted for 20% of booking revenue in 2016 (Grant Thornton, 2018). This rate continued to rise sharply and went over 30% in 2017 (VECOM, 2018). Combined with the two-digit gain in tourism revenue, online travel sales growth is estimated at over 50%. Some hotels offer online overseas reservations in Viet Nam, such as Agoda.com or Booking.com, with a 10%–25% discount on the room rate. As the tourism industry develops rapidly, revenue from online booking is estimated at up to VND1 trillion a year. Notably, social media benefits businesses, especially SMEs and individual traders; 32% of businesses are on social networks (VECOM, 2018).

Most e-commerce businesses, however, do not declare their activities and many do not have business locations or bank accounts. The government loses revenue not only because of weak payment infrastructure but also because there is no data on e-businesses' earnings (Sua, 2017).

The code system for business activity registration is not yet regulated for e-commerce, so it is difficult for tax authorities to determine the tax obligations of individuals and businesses involved in e-commerce. Viet Nam uses mainly paper invoices (91.8%), so it is difficult to manage e-commerce orders. Few companies have registered to use electronic invoices and the electronic invoice system is not connected with the tax authorities.

Granting business licences to enterprises is still a problem because some types of e-commerce are not in the list of types allowed by the government. The precise determination of Grab's and Uber's business type, for example, is still controversial: the Taxi Association says it is transport but the Ministry of Transport identifies it as contract-based transport. The tax authorities, therefore, have not determined the appropriate tax collection form.

The collection of foreign contractors' tax on cross-border transactions is also facing difficulties because the foreign organisations are not in Viet Nam but provide services and generate income in Viet Nam. Along with that is the difficulty in tracking sales activities, digital product services, and social networking sites; many businesses sell or advertise on websites and social networks but do not invoice or fully declare turnover to the tax authorities.

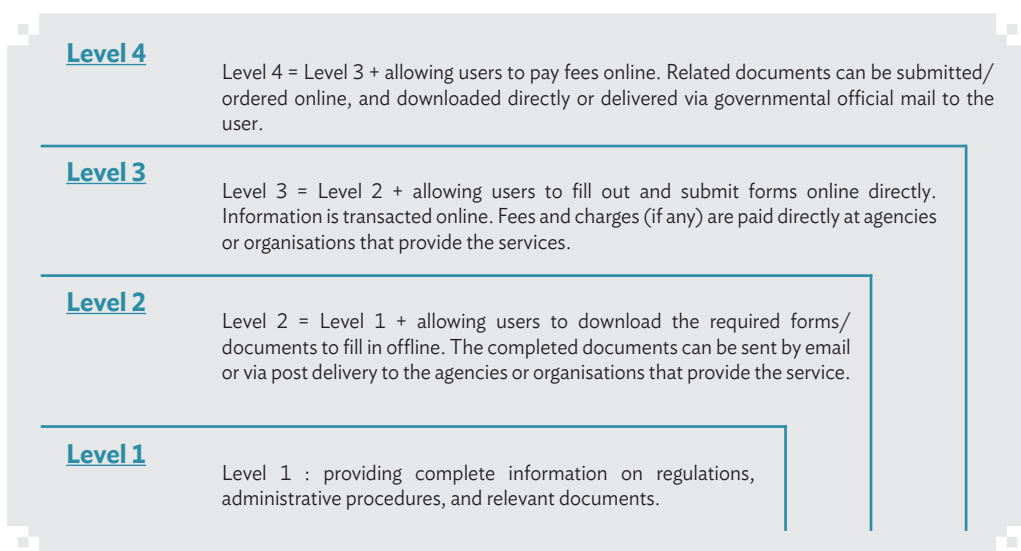
4.4. Integrating Connectivity

Resolution 36a/NQCP, issued by the Prime Minister on 14 October 2015, aims to boost the development of e-government, improve the quality and efficiency of the operation of state agencies, better serve the people and businesses, and publicise and clarify the activities of state agencies in the network environment.

Circular No. 5/2016/TT.BCT by the Ministry of Industry and Trade regulates the provision of online public services by the government, including development, implementation, receiving, handling, and responding to complaints about online public services for industrial and administrative procedures implemented at the central level. Public administrative services are related to law enforcement and not-for-profit purposes, granted by state agencies to organisations and individuals. Each public administrative service is associated with an administrative procedure that consists of four levels (see Figure 7.1).

E-government gradually came into effect in ministries, sectors, and local government, and improved the business environment, the quality and efficiency of state agencies, and service to clients. Online public services related to notification, registration, and licensing procedures of enterprises were used at the rate of 73% in 2017, close to that in 2016. Electronic tax declarations remain the most-used public service (88%), followed by business registration services (42%) (Government Office, 2018a). Table 7.4 summarises the achievement of E-government in each province.

Figure 7.1: Four Levels of E-government Service in Viet Nam



Source: Government of Viet Nam, Decree No. 43/2011/ND-CP.

Table 7.4: Progress of E-government in Viet Nam

Province	Progress
Bac Nin	Of 1,775 public services mainly at level 3 and including 104 at level 4, 819 or 46% were online.
Binh Dinh	Of the 401 online provincial services, 49 were provided at the district level and 6 at the commune level
Da Nang	Of the province's administrative procedures, 66% are provided online at levels 3 and 4 – two times higher than the 2020 target (30%). Da Nang led in information technology application and e-government development in 2018 with 640,399 electronic files, and is among the top 10 provinces with on-time services, with 633,388 or 98.9% of services provided on time.
Dak Lak	As of 25 November 2018, 7,004 or 3.6% of applications were received online (levels 3 and 4) out of a total of 194,620 applications received at state agencies.
Hanoi	As of the end of 2017, of 239,480 state services, 225,173 were online. Hanoi synchronously deployed 81 online public services at levels 3 and 4 to districts, wards, and departments; expanded 10 online public services at level 3 in 18 districts and towns and 6 online public services at level 3 in the justice field in 416 communes and towns.
Ho Chi Minh City	As of February 2019, of 1,000,845 total applications, 412,965 or 41% were online.
Quang Nam	As of the end of November 2018, the total number of online services submitted by departments and agencies was 5,713 out of a total of 46,588 received services. The rate of online processing services at level 3 and 4 is about 32%. Some departments and industries have a high rate of online applications, such as the departments of planning and investment, industry and trade, natural resources and environment, among others.
Thai Binh	As of 24 December 2018, the online public service portal system had received and updated 12,194 applications.
Thai Nguyen	In 2018, of 33,680 public services, 3,500 or 10.39% were online. Of 1,826 services received and processed at level 4, 900 or 49.3% were online.

Source: Authors. Based on Government Office (2018a).

4.4.1. Difficulties and Challenges

By the second quarter of 2017, 29 out of 30 ministries, ministerial-level agencies, government agencies, and all 63 provinces and centrally run cities had acted to build e-government. All provinces and cities across the country have interconnected document management software linking them to the Government Office. Generally, the feedbacks are quite positive. According to VECOM (2018), 99% of users agree that the e-government public services are 'very helpful' or 'relatively useful'. (Table 7.5)

Table 7.5: Assessment of Public Services (%)

Satisfaction criteria	2012	2013	2014	2015	2016	2017
Very helpful	27	25	39	52	53	52
Relatively useful	60	58	55	47	46	46
Unprofitable	13	17	6	2	1	1

Source: VECOM (2018).

Despite a detailed delivery plan, however, only 1% of total public services were provided online at level 4 and 5% at level 3. Online service rates provided at level 4 in ministries are fewer and depend on the nature of the work. For example, the Ministry of Finance has 943 online public services, 26% of which are at level 4; MPI has 332 online public services, 2% of which are at level 4⁵; MOLISA provides 0.4% of its services at level 4. Some important tasks such as proposing financial mechanisms for investment, applying IT, and setting up information systems for e-government development (land information system or land licensing via the Internet) have only just been implemented and have not yet shown specific results (Table 7.6).

Table 7.6: Implementation of Specific E-government Tasks of Ministries, Branches, and Local Governments

	Ministry/Core Government Agency	Number of Specific Tasks Assigned	Number of Tasks Completed	Number of Specific Tasks in Progress
1	Government Office	6	3	3
2	Ministry of Information and Communications	6	3	3
3	Ministry of Finance	5	3	2
4	Ministry of Planning and Investment	4	4	0
5	Ministry of Labour – Invalids and Social Affairs	1	1	0
6	Ministry of Education and Training	3	3	0
7	Ministry of Transport	2	1	1
8	Ministry of Natural Resources and Environment	3	1	2
9	Ministry of Construction	4	3	1
10	Ministry of Justice	6	3	3
11	Ministry of Science and Technology	3	3	0
12	Ministry of Culture, Sports and Tourism	2	2	0
13	Ministry of Health	6	3	3
14	Social Insurance of Vietnam	5	3	2
15	Ministry of Home Affairs	2	1	1
16	Ministry of Industry and Trade	2	1	1
17	Ministry of Agriculture and Rural Development	1	1	0
18	Ministry of Public Security	1	1	0
19	Ministry of Foreign Affairs	1	1	0

⁵Deputy Prime Minister Vu Duc Dam, National Assembly, 17 December 2017.

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	Ministry/Core Government Agency	Number of Specific Tasks Assigned	Number of Tasks Completed	Number of Specific Tasks in Progress
20	The Bank of Vietnam	1	1	0
21	Government Inspector	2	0	2
22	Hanoi People's Committee	3	1	2
23	Ho Chi Minh City People's Committee	2	1	1

Source: Government Office (2018b).

The assigned tasks are not yet completed due to the following obstacles:

First, some governance agencies, ministries, sectors, or local governments are 'reluctant' to disclose documents and procedures that they control, because if they do, they will lose the exclusive right to monitor them. According to a 2018 Office of the Government survey, out of about 700 information systems and databases at ministries, branches, and localities, only about 70 or 10% were connected to each other (Government Office, 2018b). Of the 68% Vietnamese living in rural and remote areas, 80% are poor. Many have never had access to IT, computers, or the Internet. It is hard to talk about using online public services.⁶

Second, the application of IT is still limited in many local governments and on a small scale and unsystematically within state agencies.

Third, integrating information into and exchanging it in the online public service systems of local governments and of ministries and branches has not been uniform. Management of online job processing is not consistent (L. Ha, 2017).

Fourth, online public services in many ministries, branches, and local governments are provided at the planning stage. Because of the lack of the uniform electronic format/template and guidance on hiring online services providers, many agencies have difficulty systematising profiles with administrative procedures.

5. Policy Suggestions

The development of e-commerce in Viet Nam differs across cities and provinces. Although the regulations are set by the central government; and the government's goal is to create a transparent and pro-business market environment nation-wide, the pace and effect of policy implementation are quite different. In 2018, Ho Chi Minh City ranked first in the

⁶ Issues raised at the 2017 Business Day, 'E-Commerce Solutions – For More Success', Trade Promotion Agency, Ministry of Industry and Trade, 12 December 2017, Hanoi.

e-commerce index, with 82.1 points, followed by Hanoi (79.8 points). The city with the lowest ranking, Bac Kan, got only 26 points. Amongst 63 provinces and cities, 9 of them even did not appear in the e-commerce business index of 2018 (VECOM, 2018).

On 27 July 2018, Prime Minister Nguyen Xuan Phuc warned of the inertia of reform (Tuân 2018). He proposed continuing to remove unnecessary business requirements and detecting and preventing the emergence of new ones, especially at the ministerial level. Tuân (2018) points out that in total, enterprises in Viet Nam spend VND14.3 trillion each year for professional inspection by government agencies. For example, a chocolate product needs 13 licences: its 12 ingredients need a licence each, and the finished product needs product announcement certification. Tax and customs inspectors sometimes obstruct or even threaten enterprises, deliberately seeking signs of violations in a way that is tantamount to tip harassment.⁷

By the end of October 2018 only about 13% requirements (738 out of 5,700) were abolished. By 15 August 2018, only the Ministry of Industry and Trade took action to issue decrees to simplify the e-commerce related business conditions. The Ministry of Construction and Ministry of Agriculture and Rural Development have submitted a draft decree on simplifying the related regulation. Other ministries and sectors are still reviewing and proposing plans.

From a public policy perspective, Viet Nam needs to change government staffs' mindset regarding administrative procedures, from supporting business in the way the state wants, to giving enterprises what they need. The issue is not only to improve the quality of the business environment but also to attain specific indicators and substantive business support.

Based on the survey conducted by this study, 96% of interviewees agree that in order to support the development of e-commerce, it will be among the government's top priorities to improve legal system to meet the international standards, especially in the areas of e-commerce administrative procedures, safe and secure infrastructure, the national e-payment system, an efficient transportation service, and human resources development. (see Figure 7.2) The results of the survey also highlight (i) the importance to increase the public awareness of laws and regulations, and (ii) state agencies and the business community should engage in regular dialogue, enhance mutual understanding, and quickly solve difficulties.

⁷ Richard Leech, British Business Association Vietnam and Mark Gillin, head of the Tax and Customs Working Group, at the Vietnam Business Forum, 5 July 2018, Hanoi. See <https://vbf.org/vn/>

Figure 7.2: Legal Framework to Support E-commerce



Source: Author, based on survey findings.

Implementation of e-commerce policies by government agencies and local authorities should be monitored using the public administrative regulation index (PAR index)⁸ of ministries, ministerial-level agencies, provincial people's committees, and the satisfaction index of citizens and enterprises.

While business conditions that hinder e-commerce should be abolished, trust should be retained as a business condition to minimise unsecured e-commerce websites and deception of consumers. VECOM has cooperated with the E-commerce Development Centre under the E-commerce and Information Technology Department to set up a standard system in e-commerce transactions called Safe web. E-commerce websites under the trust-label category include B2B, B2C, e-commerce platform, and buying group.

Last but not the least, in order to apply e-commerce laws and regulations in ruling online business, there are needs to establish an effective mechanism to facilitate the recognition of

⁸ The PAR index includes an internal assessment of the agency (with appraisal by the Central Appraisal Council) and an external assessment of the personnel. The index covers eight areas: (i) steering PAR implementation, (ii) developing and organising the implementation of legal documents, (iii) implementing administrative reform, (iv) reforming the organisation of state administrative apparatus, (v) building and improving the quality of the contingent of cadres and civil servants, (vi) innovating financial mechanisms for administrative agencies and public non-business units, (vii) modernising administration, and (viii) implementing a one-stop mechanism. The total PAR index score is 100 points: 62 maximum from local self-scoring results (internal assessment) and 38 maximum from sociological survey results (external rating).

electronic evidence and the legality of electronic data collected by competent authorities. Many of these issues are still under international debates. For instance, although the use and the recognition of electronic signatures (E-signature) and digital authentication has long been discussing,⁹ there is still not yet the global standard to adopt and follow.

6. Conclusion

The legal framework is crucial to the survival of e-commerce activities, especially in international trade. Every country needs to perfect a regulatory framework governing e-commerce, then unify the legal framework for e-commerce.

As the use of Internet-connected devices and mobile applications explodes, e-commerce could boom in Viet Nam and ASEAN. Establishing the digital economy is indispensable, but economic digitalisation in Viet Nam has focused only on communication and information. E-commerce policies focus only on management control, whilst other areas such as e-commerce connectivity and data sharing still face many challenges.

Lawmakers are considering a uniform legal framework to promote the broad smart environment, not just e-commerce activities, since the Internet is a unified environment and e-commerce sites operate in a similar way, ASEAN comprehensive connectivity is in processing.

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⁹ For example, the United Nations Commission on International Trade Law (UNCITRAL) Model Law on Electronic Signatures (2001); the Electronic Signatures Directive (1999/93/EC) of the European Council; and digital signature and digital signature laws of the United States.

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Annex

Documents for the Implementation of the Decrees Listed in Table 7.1 and Table 7.2

- (i) Circular No. 78/2008/TT-BTC, 15 September 2008, guiding the implementation of some provisions of Decree No. 27/2007/ND-CP on e-transactions in financial activities
- (ii) Circular No. 12/2008/TT-BTTTT, 30 December 2008, Ministry of Information and Communications, guiding the implementation of some provisions of Decree No. 90/2008/ND-CP on anti-spam
- (iii) Circular No. 03/2009/TT-BTC, 2 March 2009, Ministry of Finance, prescribing management codes for electronic mail, text message service providers, and message service providers, guiding the implementation of Decree No. 90/2008/ND-CP
- (iv) Circular No. 50/2009/TT-BTC, 16 March 2009, guiding electronic transactions in the securities market
- (v) Circular No. 26/2009/TT-BTTTT, 31 July 2009, Ministry of Information and Communications, providing information on and ensuring convenient access to the website of state agencies
- (vi) Circular No. 37/2009/TT-BTTTT, 22 July 2010, Ministry of Information and Communications, regulating the profiles and procedures related to licensing, registration, accreditation of service delivery organisations, and authentication of digital signatures
- (vii) Circular No. 17/2010/TT-BKH, 22 July 2010, Ministry of Planning and Investment, detailing online pilot bidding
- (viii) Circular No. 153/2010/TT-BTC, 28 September 2010, Ministry of Finance, guiding the implementation of Decree No. 51/2010/ND-CP, 14 May 2010, on sales invoices, goods, and services
- (ix) Circular No. 23/2010/TT-NHNN, 9 November 2010, Governor of the State Bank, providing for the management, operation, and use of the inter-bank electronic payment system
- (x) Circular No. 180/2010/TT-BTC, 9 November 2010, Ministry of Finance, guiding electronic tax transactions
- (xi) Circular No. 25/2010/TT-BTTTT, 15 November 2010, Ministry of Information and Communications, regulating the collection, use, sharing, safety, and protection of personal information on websites or portals of state agencies
- (xii) Circular No. 209/2010/TT-BTC, 20 December 2010, Ministry of Finance, regulating electronic transactions in State Treasury operations

- (xiii) Circular No. 32/2011/TT-BTC, 14 March 2011, Ministry of Finance, guiding the creation, issuance, and use of electronic invoices for sale of goods or provision of services
- (xiv) Joint Circular No. 10/2012/TTLT-BCA-BQP-BTP-BTTTT-VKSNDTC-TANDTC, 10 September 2012; Ministry of Public Security, Ministry of Defence, Ministry of Justice, Ministry of Information and Communications, Supreme People's Procuracy, Supreme People's Court; guidance on applying the Penal Code to some crimes in the field of information and communication technology
- (xv) Circular No. 47/2014/TT-BCT, 5 December 2014, Ministry of Industry and Commerce, regulations on management of e-commerce websites
- (xvi) Circular No. 39/2014/TT-NHNN, 11 December 2014, Governor of the State Bank, on payment services