



February 27, 2015

Vietnam E-Commerce and Information Technology Agency  
25 Ngo Quyen, Hanoi

**Re: Comments in response to Circular No. 47 on regulating management of e-commerce websites**

The Asia Internet Coalition (“AIC”) is an industry association formed by Apple, eBay, Facebook, Google, Salesforce, LinkedIn, Yahoo! Incorporated, and Twitter that seeks to promote understanding of Internet policy issues in the Asia-Pacific region.

E-commerce has been able to flourish around the world and in many developed and developing markets through a light-touch policy regime, bringing wealth creation, raising living standards, and making trade and export more inclusive for everyone. The combination of the internet, technology and digital services are lowering the barriers to trade and making global export a feasible option for even micro and small businesses in developing economies. Research done by Sidley Austin on SMEs in developing markets found that over 95% of e-commerce enabled SMEs to engage in export. It also found that on average, these small businesses were able to reach more than 30 international markets.<sup>1</sup>

We believe that under the right conditions, the E-commerce industry will be an enabler for growth in Vietnam and we look forward to building on our exchange and partnership with the Vietnamese Government to achieve that goal.

It is from that perspective that we offer the following three high-level recommendations for VECITA’s consideration as it continues to develop a national policy framework to ensure a safe, secure, and dynamic e-commerce sector in Vietnam.

- **Ensure the responsibilities and liabilities of e-commerce intermediaries are appropriately limited**  
E-commerce intermediaries such as online marketplaces and app stores have an international reach with millions of buyers. As a result, they often act as a launch pad and an important distribution channel for many small Vietnamese Entrepreneurs and businesses that are just starting out.

To ensure a transparent and safe e-commerce environment, most reputable e-commerce intermediaries will, without prompting from the Government, develop proactive measures and clear policies to prohibit the sale of fake goods and other offending items on their sites, including robust filters to remove such items when detected, and partnerships with IP Owners and Law Enforcement Agencies. As long as e-commerce intermediaries take down infringing or offending items created by internet users after they receive a valid notice from an IP Owner or a Law Enforcement Agency, they should not be held legally responsible.

**The AIC believes it is important to make a clear distinction in the legal liabilities and responsibilities applied to “Internet intermediary” websites that actually facilitate e-commerce**

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<sup>1</sup> Commerce 3.0 Report available here: <http://ebaymainstreet.com/commerce3>.



**transactions, versus legal liabilities applied to online users who use those websites to buy and sell goods and services.**

A review of the US Digital Millennium Copyright Act<sup>2</sup> (DMCA) may be helpful. The DMCA has notable “safe harbour” provisions which protect internet service providers from the consequences of their users’ actions, while at the same time ensuring that offences will be legitimately addressed. Limiting the liabilities of e-commerce intermediaries by encouraging a collaborative “notice and take down” system will prevent e-commerce service providers’ daily operations from being disrupted, allowing them to serve their role of connecting Vietnamese sellers with buyers from all over the world.

- **Foster Trust in e-commerce Without Excessive Personal Data Disclosure**

For e-commerce export to take off in Vietnam, policies need to recognize that the seller’s right to privacy is just as important as the buyer’s need for transaction transparency. Trust – the most crucial component in creating a safe and transparent e-commerce environment – can be fostered by establishing clear listing or selling conditions, and providing accurate item descriptions, basic seller’s location information, and a means to contact the seller. For example, reputable e-commerce sites may ask the seller to disclose the item’s general shipping location in order to provide a degree of trust to the buyer, but would not go to the extent of revealing the seller’s real name, address, or business license number. In order to encourage responsible behavior among buyers and sellers, many e-commerce sites also establish a feedback system so that users can rate and comment on each other’s trustworthiness, ensuring untrustworthy sellers are quickly identified and isolated.

Many international e-commerce operators are bound by international privacy standards that limit the extent of user contact information and other personal information they are able to disclose to the public. Given the global nature of e-commerce, the AIC encourages VECITA to consider policies that will encourage private sector methods of self-regulation, feedback systems, and enforcement mechanisms.

- **Encouraging adoption of safe payment platforms**

The AIC supports Vietnam’s commitment to delivering a safe and secure e-commerce environment that ensures continued growth and development. Rather than requiring specific information disclosures, the AIC strongly encourages policies that promote the use of safe and secure payment platforms equipped with appropriate anti-fraud technology. While detailed process-focused regulatory requirements often fail to keep up with e-commerce innovations and can unintentionally create regulatory loopholes for low-standard service providers and cyber criminals to exploit, global case studies show that use of safe payment platforms with anti-fraud technology are one of the best policy measures Governments can encourage to help protect users from online-exploitation.

Vietnam is strongly positioned to benefit from the growth of e-commerce in the global economy and Asia-Pacific in particular, and the AIC is committed to working with VECITA and other Government agencies to maximize Vietnam’s development. We also believe that education will help promote the Internet as a safe and trusted place for e-commerce, and the AIC would be delighted to partner with

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<sup>2</sup>[http://113.171.224.206/videoplayer/dmca.pdf?ich\\_u\\_r\\_i=c89dcb6563674ed5c736722aa69497b2&ich\\_s\\_t\\_a\\_r\\_t=0&ich\\_e\\_n\\_d=0&ich\\_k\\_e\\_y=1545028924751063232401&ich\\_t\\_y\\_p\\_e=1&ich\\_d\\_i\\_s\\_k\\_i\\_d=4&ich\\_u\\_n\\_i\\_t=1](http://113.171.224.206/videoplayer/dmca.pdf?ich_u_r_i=c89dcb6563674ed5c736722aa69497b2&ich_s_t_a_r_t=0&ich_e_n_d=0&ich_k_e_y=1545028924751063232401&ich_t_y_p_e=1&ich_d_i_s_k_i_d=4&ich_u_n_i_t=1)



VECITA and the Ministry of Industry and Trade on education activities to promote e-commerce safety in Vietnam.

We thank you for your kind consideration and look forward to building a more detailed exchange on these topics in future.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'H. Vriens', is written over a light blue grid background.

Hans W. Vriens  
Secretariat - Asia Internet Coalition