



## **GOVERNMENT PROMOTES THE DEVELOPMENT OF E-COMMERCE APPLICATIONS IN VIETNAM**

### **1. INTRODUCTION**

E-commerce is a powerful tool supporting and facilitating economic growth and is considered to be the basic infrastructure of the knowledge-based economy. It has been going through a process of extra high-speed growth and development. It revolutionizes the way we do business, live, and entertain. It includes many economic activities such as digital data exchange between businesses, financial transactions and services, sales services and many others. E-commerce can potentially make a great contribution to the human kind's prosperity. The number of countries, which adopt e-commerce, tends to increase very quickly. Several developing countries also started to participate in e-commerce. Many others have been preparing proactively, creating necessary conditions for the successful application of e-commerce. The adoption of and participation in e-commerce is becoming an objective requirement for nations to accelerate the development of their economies.

E-commerce transactions can be carried out through various means of electronic communication, however, Internet plays the most important role, Internet can be considered to be the basis for e-commerce. Internet has been going through an explosive development pace in terms of penetration, range of application and service quality. Internet is becoming much more than just a technical facility, this creates a new environment for social, economic, cultural, educational activities etc. affecting the life of people on the whole globe.

Although e-commerce is considered to be a natural development in the age of digital economy, when we are adopting e-commerce, we should be aware that, this is not just a new way of trading. E-commerce touches several facets of the world's economy, it

affects all social-economic activities. This requires the change of the legal systems, the education systems, the national standard systems and many others. This may lead to the gradual change of the working and living styles of the people in societies.

In an emerging economy like Vietnam, e-commerce and the IT industry are given our fair share of attention and support. recent initiatives taken by the Vietnam government toward boosting this sector include the formation of the E-Commerce Board, the introduction of a new Internet management decree, entering into the E-ASEAN Framework Agreement, and the lowering of Internet access charges.

Such efforts are encouraging and laudable, and Vietnam has a long way to go in putting into place the technical, socioeconomic and legal structure necessary to stimulate and support the growth of e-commerce.



## 2. GROWTH IN INTERNET USAGE

### a. Internet Subscribers

Internet usage in Vietnam is not widespread, but it is growing quickly. The Internet was only introduced in 1997 and the cost of Internet access in Vietnam is the highest in the region. It is therefore not surprising that in spite of having a population of about 80 million , there only about an estimated 250,000 Internet Subscribers. Given this low rate of Internet usage and a host of socioeconomic and legal factors, e-commerce has yet to develop into a prominent or integral part of business in Vietnam.

However, it would be misleading to think that Vietnam is destined to remain in the backwaters of the tech world. The growth in Internet usage in Vietnam is actually quite remarkable, given the high

cost of access and the generally low disposal income of the population.

In mid-1999, Vietnam had just 500,000 computers users, with only 40,000 of them subscribed to the Internet. In 2000, the number of Internet subscribers grew to about 70 ,000 and reports in the third quarter of 2001 show that there are over 1 million computer users and 250,000 Internet subscribers in Vietnam. This growth in Internet usage has surpassed the expectations of the DGPT, which estimated that there would be only 103 ,000 Internet subscribers in 2000.

It is also noteworthy that almost 50% of Internet subscribers are Vietnamese individuals, which indicates that the local population is quickly employing the Internet as a tool in their daily lives. World affairs are followed on the CNN website, while local news can be found on websites such as, vnagency.com.vn, vnnews.net and vnexpress.net.

We continue to expect accelerated growth in Internet usage in Vietnam, as the connection rates will continue to be lowered periodically. We now targets 1.5 million subscribers and 5 million users by 2005.

### b. E-Commerce/ Websites

It was reported this year after a survey of 56,000 companies, mostly SMEs (accounting for about 80% of Vietnamese companies), that only 3% of them engaged in e-commerce and with only 7% intending to implement e-commerce to varying degrees. Reportedly, the remaining 90% have no definition or are vague as to e-commerce. It was also estimated that there are about 1,500 enterprises that have private websites.

However, the Vietnam government is taking the initiative to develop the Internet into a business tool. The Ministry of Planning and Investment (MPI) launched the Vietnam Business Website



([www.business.gov.vn](http://www.business.gov.vn)) early this year; this reportedly completes the first phase of the National Business Information Network, which aims to create a more transparent business environment in Vietnam through better information dissemination and more efficient business registration procedures.

A center for IT transaction was built in April this year in Hanoi, which will create a facility for entrepreneurs to do business online. This first phase of the project will include the construction of a transaction floor and Internet integrated hub to be completed and in operation around the end of this year.

Vietnam business news and opportunities, which are geared more towards foreign businesses or users, include [www.vietnam.com](http://www.vietnam.com), [www.mekongresearch.com](http://www.mekongresearch.com), and [www.sonystyle.com.vn](http://www.sonystyle.com.vn).

Online shopping for general household goods is available in Vietnam at [www.tvc.com.vn](http://www.tvc.com.vn), and real estate and construction services can be found at [www.realestate.vnn.vn](http://www.realestate.vnn.vn), [www.nhadat.com.vn](http://www.nhadat.com.vn), and [www.nhavui.com.vn](http://www.nhavui.com.vn).

A e-commerce network between Vietnam and Japan was established by JETRO and VIETRADE in November 7, 2001. Jetro was selected option B to C and Vietnam's famous handicrafts products. More 116 different products of Vietnam were introduced and shopping online via the internet. There are more 50,000 accessed times within 4 months in a sharp competition market like Japan with 500,000 websites is seen a very good result.

### 3. LEGAL DEVELOPMENTS

Current regulations in this sector, which were largely promulgated in 1997, have been frustratingly inadequate in providing a framework necessary to keep pace with the developments in this industry. In keeping up with such

developments, the government recognizes the need to build up a legal framework that not only regulates such activities, but also to encourage further progress in this sector.

#### a. Decree No. 55 – Management and Use of Internet Services

Decree No. 55/ND-CP on the management and Use of Internet Services (Decree No. 55) was promulgated on 23 August 2001, and took effect on 8 September 2001. This decree repeals and replaces Decree No. 21/CP Issuing the Provisional Regulations on the Management, Establishment and Use of the Internet in Vietnam dated 5 March 1997 (Decree No. 21), which has been the main Internet legislation since 1997 (when the Internet was introduced in Vietnam).

Circular No. 04/2001/TT-TCBD (Circular No. 04) was subsequently issued on 20 November 2001 to guide the implementation of Decree No. 55.

ISPs



The first sign of the positive effect of Decree No. 55 and Circular No. 04 is the very recent licensing of ten ISPs in Vietnam by the General Department of Post and Telecommunications (DGPT), two of which are private ISP.

Prior to Decree No. 55, only state telecom enterprises and government-controlled joint ventures with the private sector have been allowed to offer ISP services in Vietnam.

Decree No. 55 also provides that foreign-invested enterprises (FIE) wanting to provide Internet services in Vietnam, must not only comply with the provisions of the Decree, but must also comply with international treaties to which Vietnam is a signatory and the laws relating to foreign investment in Vietnam. This suggests that DGPT is laying the legal basis for more liberal foreign

participation in this industry inline with the recent coming into force of the US-Vietnam Bilateral Trade Agreement (BTA) in December 2001, and also to meet its commitments under the e-ASEAN Framework Agreement. However, the newly licensed ISPs have no direct foreign participation.

#### Data Protection and Privacy/Hacking

Personal data protection and prevacy are considered personal rights and are protected under the Civil Code of Vietnam. When a personal rights is violated, the injured party has the right to:

- Demand the infringer or request a court to order the infringer to cease the infringing act or issue a public apology or retraction;
- Make a retraction him/herself in the mass media; or
- Demand the infringer or request a court to order the infinger to compensate for material damage and mental suffering.

Decree No. 55 reiterates this position by providing that confidentiality of private information of organizations and individuals are ensured in accordance with the Constitution and applicable laws. Furthermore, this Decree imposes fines for the unlawful access and use of personal information.

Specificially, fines of VND 200,000 up to 20,000,000 will be imposed on a range of acts, such as:

- Using the password, encryption code or personal information of another person to access and use internet services illegally;
- Using soft ware tools to access and use internet services illegally;
- Breach of regulations on the safety and security of internet information in the provision of internet services;



Using the internet with the intention of threatening, harassing, and defaming the honor and human dignity of another person;  
Stealing a password, encryption code, or private information of any organization or individual and popularizing its use among others;  
Breach of regulations on computer operations, exploitation and use, causing chaos, or blocking or deforming or destroying the data on the internet; and  
Creating and deliberately disseminating or spreading virus programs on the internet.

In serious cases, the violators will also be prosecuted under criminal law.

Even prior to the promulgation of Decree No. 55, two Vietnamese computer hackers have been charged for “stealing personal assets” (i.e., internet passwords) and illegal use of computers to access other people’s internet accounts, and have been fined VND 5,000,000 each by the Ho Chi Minh City People’s Court. This case is the first of its kind in Vietnam and while the misdemeanor is relatively minor, it is a positive sign that the courts have taken the first step in dealing with internet crime.

#### b. E-Commerce Regulations

Although Decree No. 55 has made some headway in liberalizing and managing the internet sector, and in imposing fines for internet related abuses, it is unfortunate that the same can not be said for e-commerce regulations.

Regulations specific to e-commerce are sorely lacking. In fact, it is even arguable whether or not e-contracts are valid and enforceable under Vietnamese law. At best, the Commercial law of Vietnam provides that a commercial sales contract may be formed orally, in writing or by a specific conduct. Among these forms, e-mail and other

electronic forms of communication are considered to constitute writings.

This link to e-contracts is already tenuous, there are no regulations on e-signatures. Due to the absence of a firm and specific legal basis for the recognition of e-contracts, the Vietnamese courts may be hard pressed to attach evidentiary value to electronic means of concluding contracts.

Over the last few years that the government is in the process of studying various models of e-commerce and e-signature regulations, however, it appears that no further progress has been made. This lacuna in the law must be adequately addressed. It will be very difficult to stimulate and develop an e-commerce industry in Vietnam and the region. However, both foreign and domestic companies should have confidence that Vietnam’s legal system supports and recognizes a business conducted electronically.

#### c. e-ASEAN Framework Agreement

Vietnam entered into the e-ASEAN Framework Agreement (the e-ASEAN Agreement) with its Asean counterparts on 24 November 2000, under which the member states have,



broadly speaking, committed to develop their IT industry and agree to encourage connectivity, trade and mutual investment in this sector, and to facilitate cross border trade and electronic transactions.

Specifically, the objectives of the Agreement are:

- To develop, strengthen and enhance competitiveness of the information and communication technology (ICT) sector in Asean;
- To reduce the digital divide between individual Asean members; and
- To promote the liberalization of trade in ICT products and services.

ICT refers to infrastructure, hardware and software systems, needed to capture, process and disseminate information to generate information-based products and services.

By 2002, Asean members have to implement and/or facilitate the following agendas:

#### Information Infrastructure

- To enhance the design and standards of their national information infrastructure, with a view to facilitating inter-connectivity and inter-operability; and
- To establish high-speed direct connection in the national information infrastructure , with a view to inter-connection into the Asean information infrastructure.

#### E-Commerce

- Adopt national laws and policies relating to e-commerce based on international norms;
- Establish mutual recognition of digital signature frameworks;
- Facilitate secure regional electronic transactions, payments and settlement;
- Adopt measures to protect intellectual property rights arising from e-commerce;
- Promote personal data protection and consumer privacy; and
- Encourage the use of alternative dispute resolution mechanisms for online transactions.

#### Trade in ICT Products and Services, and Investments

- To eliminate duties and non-tariff barriers in intra-Asean trade in ICT products; and
- Open ICT products to investments by Asean investors.



While these provisions display much progressiveness, it is unfortunate that the e-Asean Agreement does not have a strict schedule as to when such obligations have to be met. While the more developed Asean members, such as Singapore and Malaysia, have timing imposed on them in certain parts of the Agreement, the newer and less developed member nations, such as Vietnam and Laos, are given a much wider berth in meeting these obligations. In the meantime, the other Asean members are obliged under this Agreement to provide them the necessary assistance.

#### 4. E-COMMERCE BOARD

The E-Commerce Board is an inter-ministerial steering committee coordinated by the Ministry of Trade that was recently established to oversee Vietnam's fledgling IT industry. This is a positive indication that Vietnam government is pushing ahead its agenda to develop this industry and in meeting its commitments under the e-Asean Agreement.

The board has reportedly come up with an e-commerce development plan for 2001-2005, in which they have identified the obstacles hindering the development of e-commerce in Vietnam, such as the lack of social awareness and understanding of e-commerce, and the high cost of internet access.

Vietnam government's broad objective is to develop the IT infrastructure and legal corridor by 2005 to comprehensively enable e-commerce transactions by 2005. Specifically, we intend to develop a national information infrastructure, raise awareness among companies, and establish an e-commerce legal system, addressing matters such as information security, e-payments and intellectual property rights. In order to achieve ourself objectives, we are proposing to the government an annual budget of VND 100 billion (approximately US\$6.6 million) to fund the project.

#### 5. CONCLUSION

Vietnam is currently trailing behind its Asian neighbors such as Hongkong, Singapore and Malaysia in the level of internet usage, advancement in technology, and sophistication of regulatory frameworks, it would, at the same time, be short-sighted to dismiss the growth and business potential of Vietnam in the area of e-commerce.

The Vietnam government is placing emphasis in the IT industry. In particular, she is keen to develop the software industry, and appear to be taking steps to promote and facilitate internet usage and e-commerce. This can be seen in the development of IT hubs and software parks, and in the lowering of internet access fees. However, much work is still needed in introducing regulations specific to e-commerce.

Vietnam is also in the unique position of drawing from the wealth of experience from the post-tech wreck of larger and more developed economies in formulating appropriate policies, laws and administrative measures. With proper legal and socioeconomic framework in place, Vietnam will be able to use the internet as a powerful business tool.