

Liability For Product Recall In Vietnam: The Legal Provisions And Practice

Cao Dinh Lanh^{(1)*}, Ho Ngoc Hien⁽²⁾, Le Lan Anh⁽³⁾

⁽¹⁾ University of Law, Hue University, cdlanh@hueuni.edu.vn

⁽²⁾ Faculty of Law, Hanoi Open University, hongochien@hou.edu.vn

⁽³⁾ Vass_Institute of Americas Studies, lenganh84.vias@gmail.com

*Correspondence: cdlanh@hueuni.edu.vn

Abstract:

The legal regulations on liability for recalling defective products in Vietnam, which have been promulgated in recent years, have initially achieved certain results in protecting consumers' interests. While Vietnam is implementing the rule of law to ensure the protection of consumers' rights, some cases of recalling defective products suggest a need to enhance the responsibility of enterprises. Using several case examples from Vietnam, this study examines two levels of factors that contribute to limitations of recalling defective products: (1) inadequacies of legal regulations and, (2) difficulties of law enforcement. In addition, we conclude that the effectiveness of recalling causes of defective products in Vietnam depends on the awareness of enterprises and culture. Dealing with this matter requires overall solutions that address the root causes of the problems, thereby some recommendations are offered.

Keywords: defective products, liability for recalling defective products, products liability, enterprises, legal regulations of Vietnam.

Introduction

After the Law on Protection of Consumer Rights in 2010 took effect with specific provisions on product liability, consumer protection activities have had clear changes and businesses are more responsible for protecting the interests of consumers, especially in recalling defective products. The Vietnam Competition and Consumer Authority (VCCA) is a state management agency for consumer protection. Through statistics, it can be seen that the number of recalls tends to increase, with some years having a sudden increase, which on the one hand proves that state management agencies and enterprises have paid more attention to the rights and interests of consumers. There is a change in the perception of enterprises about their willingness to accept defects in products and to actively implement recall programs to ensure the interests of consumers. On the other hand, it also has a great impact on consumers because the number of involved products in many cases amounts to hundreds or thousands of products. The VCCA has always closely monitored and promptly released press information for consumers to know and implement. Most enterprises have actively recalled defective goods, and reported

the results to the VCCA. Businesses recalling not only high-value items such as cars and motorbikes but also products of daily living and consumption such as cameras, night lights, cosmetics, children's toys, milk, instant noodles, and so on.

The effectiveness of defective product recalls in Vietnam is not simply a matter of the law, but is also affected by the merchants' ability to enforce them. Therefore, the article will focus on addressing the following three research questions (RQs):

RQ1. What are the limitations and contradictions in Vietnam's law on recalling defective products?

RQ2. What are the difficulties in applying the law on recalling defective products in Vietnam?

RQ3. How should Vietnam address the current situation of defective product recalls?

Our study classifies factors contributing to limitations and difficulties in recalling defective products in Vietnam based on selected cases to address these questions presented in the findings section. The final section focuses on a series of recommendations to address these matters.

Data and Method

The article uses a combination of qualitative research methods and case-study research methods:

The qualitative research method is a method of collecting information and data about the provisions of Vietnamese law on the recall of defective products. This method is intended to serve the purpose of analysis or in-depth assessment of the level of perfection, harmony, and conformity between the legal provisions on the recall of defective products. The information collected will be discussed in the discussion section. Subjects of qualitative research are the regulations of the Civil Code, the Law on Protection of Consumer Rights, the Law on Quality of Products and Goods

The case-study method is a method of collecting information and data on defective product recalls. This method is intended to serve the purpose of analyzing or evaluating the practical application of the provisions of the law on the recall of defective products to find out the characteristics related to each specific case. The information collected will be discussed in the discussion section. Case numbers are incidents that occurred in the period 2019-2022 with several types of defective products such as food, consumer goods, and medical goods.

Findings

Applicable laws of Vietnam on defective goods and responsibility to recall defective goods

The provisions on goods with defects in the Law on Protection of Consumer Rights initially came close to the regulations on product liability of developed countries in the world, reflected in the following contents: Defective goods are goods that are not safe for consumers, that is, they are capable of causing damage to the life, health, and property of consumers; Defective goods may arise from technical design, manufacturing process, processing, transportation, storage or due to lack of instructions and warnings to consumers. However, going into detail, the regulations on defective goods still have the following limitations:

There is no single comprehensive law in Vietnam governing the recall of defective goods and the responsibility of related manufacturers and traders. This matter is provided under

different laws and regulations, among which, the Law on Protection of Consumer's Rights issued in 2010 is a significant legal instrument. Article 3.3 of this Law specifically defines defective goods as follows:

“3. Defective goods are goods that do not ensure safety to consumers, likely causing damage to lives, health, and property of consumers, even though such goods are manufactured following current technical standards or norms with no defects being detected at the time the goods are supplied to consumers, including:

- a) Mass-produced goods with defects arising from engineering design;
- b) Single goods with defects arising from the production, processing, transportation, and storage;
- c) Goods with the potential to deteriorate the safety during use but no adequate instructions and warning being provided to consumers”.

It appears that the Law on Protection of Consumer's Rights defines defective goods from a perspective that goods may cause harm to the safety of consumers. This approach comes from and is consistent with current regulations of the United Nations and many countries whereby the consumer's right to safety is recognized as one of the eight rights of consumers.¹ The consumer's right to safety is the right to have safe goods and services that do not pose a danger to health, life, or mental harm. Consumers are neither threatened by risks in the production process nor damaged during the use process of goods and services. The safety of consumers must be maintained in the immediate and long term.

The Law on Protection of Consumer's Rights also specifically stipulates the responsibility of related individuals and organizations for defective goods, including recalling defective goods and compensating for damages caused by defective goods. Regarding the recall responsibility, Article 22 of this Law provides the responsibility of two groups of subjects, including organizations and individuals producing goods and organizations and individuals importing goods. This is consistent with the definition of defective goods mentioned above, in which the defect may arise during the process of goods' design and use. Accordingly, upon detecting a goods defect, organizations and individuals producing and

importing such goods shall have the following responsibilities:

- Promptly take all necessary measures to stop the supply of defective goods on the market;
- Inform publicly about the defective goods and the recall of the goods by at least 05 consecutive issues of a daily newspaper or 05 consecutive days through the radio or television in an area where such goods are circulated, with the following details: (a) description of the goods to be recalled; (b) reasons for recall of the goods and warning on the risk of damages caused by the defective goods; (c) time, place and way of recall; (d) time and measures to recover the defects; and (e) measures necessary to protect the interests of consumers in the recalling process;
- Implement the recall of defective goods in line with the publicly-informed contents and bear the expenses incurred in the recalling process;
- Report the results to the provincial state management agency for the protection of consumers' interests where the recall takes place after completion of the recall (in the case where the recall is conducted on the territories of two or more provinces, the results shall be reported to the central state management agency for the protection of consumers' interests).

Under the above regulations, the related organizations and individuals are responsible for actively recalling the defective goods immediately upon detecting defects without any complaints or requests from consumers or other parties.

In this regard, the approach of the Law on Product and Goods Quality of 2007 is somewhat inconsistent. This Law stipulates that manufacturers, importers, and sellers of goods have the responsibility “to repair, refund money or exchange for new goods or receive back defective ones which are returned by consumers” and “to withdraw and handle unqualified products and goods”. These subjects shall also be responsible for promptly stopping production and notifying such concerned parties, taking remedies when finding out that their products or goods cause unsafety or fail to conform to announced published standards or relevant technical regulations.² It can be seen that this Law uses several different terms, including “defective goods”, “unqualified goods”, “goods causing

unsafety”, and “goods do not conform to published standards”. Concerning “defective goods” as cited above, the producer/importer/seller is obliged to recall defective goods only in case such goods are returned by the seller or consumer. The question is that if there is no return request from the seller or consumer, whether the producer/importer/seller is responsible for recalling the defective product? This way of approach is inconsistent with provisions in the Law on Protection of Consumer's Rights, which require the manufacturer and importer to actively recall defective goods as soon as they detect defective goods without any return request from consumers. The inconsistency between the two laws may cause difficulties during the law applied to determine the responsibility of related organizations and individuals for recalling defective goods.

Other than provisions in the Law on Protection of Consumer's Rights and the Law on Product and Goods Quality, the responsibility for recalling defective goods is also provided in several specialized laws, such as the Law on Food Safety of 2010 and Law on Pharmacy of 2016.

Article 55 of the Law on Food Safety provides for the recall and disposal of unsafe foods. Accordingly, foods must be recalled in several cases, including, among others, foods uncomformable with relevant technical regulations, foods that are degenerated during preservation, transportation, or trading, and foods that contain substances banned from use or presence of contaminants exceeding the prescribed limit. Unsafe food producers and traders shall publish information on recalled products, recall and dispose of unsafe foods within the time limit decided by a competent state agency, and pay all recall and disposal expenses. Failure to recall foods within the prescribed time limit, food producers and traders shall be coerced to do so under the law.

The Law on Pharmacy also provides regulations on recalling drugs and medicinal ingredients that do not meet quality standards, drugs manufactured from medicinal ingredients that fail to meet quality standards (Article 62), and the responsibility for recalling drugs of the applicant, domestic manufacturer, preparing facility, importer or import instructor of drugs (Article 64). It appears that the Law on Food Safety and Law on Pharmacy does not use the term “defective goods” when providing for the responsibility of related entities to recall products. Alternatively, these laws use the

concept of “unsafe food” or “drugs that do not meet quality standards”.

For sanctions applied to violations against regulations on responsibility for recalling defective goods, currently, the administrative sanctions are provided under Decree No. 98/2020/ND-CP dated 26 August 2020 of the Government prescribing penalties for administrative violations against regulations on commerce, production, and trade in counterfeit and prohibited goods, and protection of consumer rights. According to this Decree, an individual or organization failing to recall defective goods may be imposed a maximum fine of VND 50 million for an individual or VND 100 million for an organization and shall be forced to recall such defective goods.³ In the field of food safety, Decree No. 115/2018/ND-CP dated 9 April 2018 of the Government on penalties for administrative violations against regulations on food safety stipulates a maximum fine of VND 30 million for an individual or VND 60 million for an organization failing to recall unsafe food.⁴ In the field of product and goods quality control, an individual or organization failing to suspend goods production and recall unqualified goods being sold on the market that are likely to cause unsafety to consumers may be imposed a maximum fine of VND 25 million for an

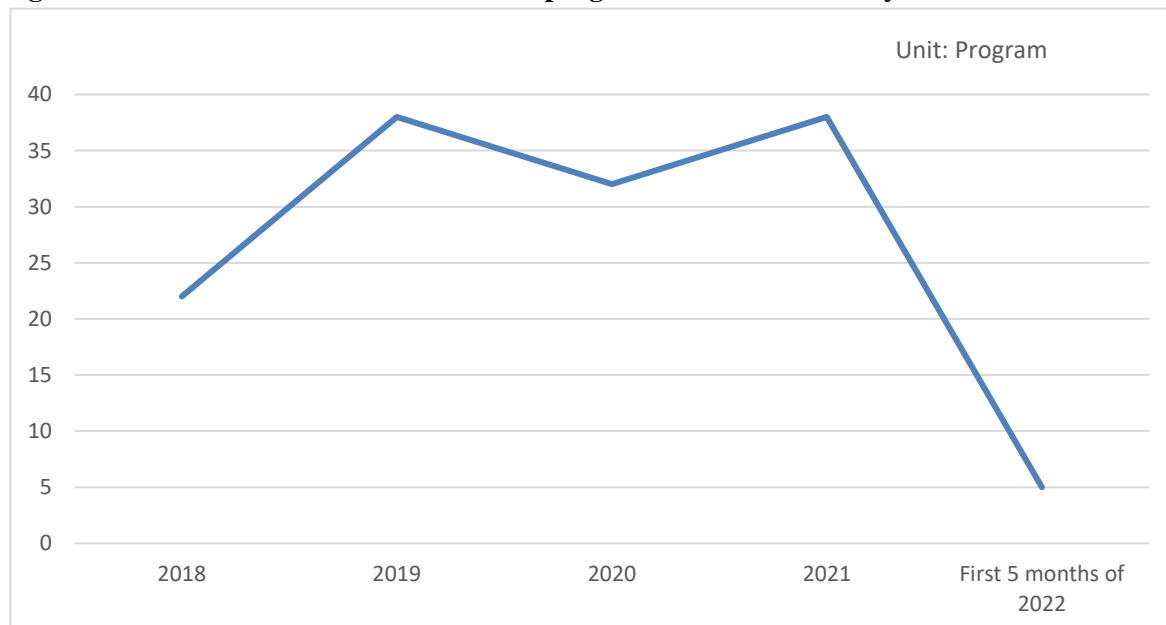
individual or VND 50 million for an organization.⁵ The applicable laws of Vietnam do not provide criminal liability for individuals and organizations failing to recall defective goods.

Law enforcement on the responsibility to recall defective goods in Vietnam

According to the list of recalled defective goods announced on the website of Vietnam Competition and Consumer Authority (VCCA) under the Ministry of Industry and Trade, there are 40 recall programs received and supervised by VCCA between 2019 and 2022, mostly programs for recalling defective cars, laptops, and children’s toys.⁶

Among the essential consumer industries such as food, pharmaceuticals, and motor vehicles, the statistics of motor vehicles are published on the website of the Vietnam Register on a regular and quickest basis. Statistics from 2018 to May 2022 show that the number of recall programs for defective cars and motorcycles has changed over the years, with which the number of recall programs in 2019 and 2021 being the highest with 38 programs. Within the first five months of 2022, the number of recall programs was 5.

Figure 2.1: Number of motor vehicle recall programs from 2018 to May 2022



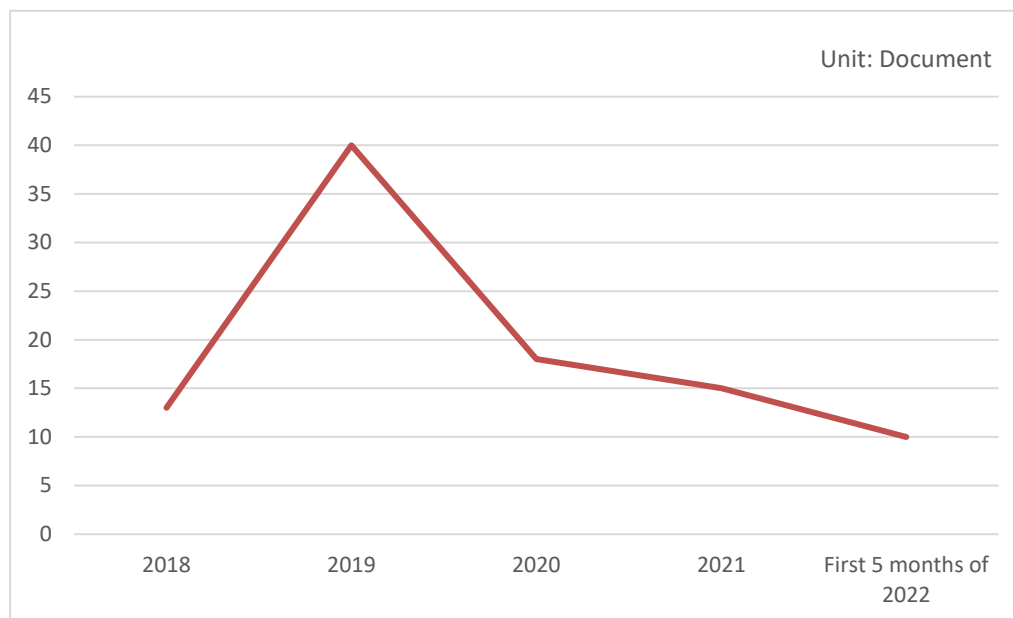
(Source: the Vietnam Register's portal)⁷

letters warning and recalling unsafe pharmaceutical products and drugs from 2018 to May 2022.

In the field of drug management, the Drug Administration of Vietnam (DAV) under the Ministry of Health has issued many official

Figure 2.2: Number of official letters from DAV warning and recalling defective products from 2018 to May 2022

(Source: the Drug



Administration of Vietnam's portal)⁸

In the field of food safety, the Vietnam Food Safety Authority (VFA) under the Ministry of Health also issues warnings for unsafe food for consumers in a timely and accurate manner (see Box 1).⁹

Box 1	Warning Product MAX HEALTH GO COFFEE INSERT COFFEE TO BEGIN contains Sibutramine
<p>Information of the case: In April 2022, a suspected case of food poisoning occurred in Ho Chi Minh City, Vietnam. Four (04) product samples of MAX HEALTH GO COFFEE INSERT COFFEE TO BEGIN were discovered containing Sibutramine, including the ones with manufacturing and expiry dates as follows: MFG: 2022/03/07 - EXP: 2024/03/07; MFG: 2022/03/18 - EXP: 2024/03/18; MFG: 2022/03/25 - EXP: 2024/03/25; MFG: 2022/04/20 - EXP: 2022/04/20. These are products of Matxi Corp Co., Ltd (headquartered in Ho Chi Minh City); Place of manufacture: Branch of MEDINO International Co., Ltd (headquartered in Dong Nai province).</p> <p>Actions of VFA: The VFA has conducted an inspection at Matxi Corp Co., Ltd and the branch of MEDINO International Co., Ltd; at the same time, VFA has put the images of the above products on VFA's website and warned consumers not to buy or use the products. Consumers have also been recommended to notify the authorities to handle in accordance with the law if these products are found circulating on the market.</p>	

In addition to warnings, the VFA also implements recalls of unsafe foods (see Box 2).¹⁰

Box 2	Recalling 05 unsafe food products manufactured at Vinh Dien Pharmaceutical Manufacturing Co., Ltd
<p>Information of the case: On 18 May 2022, the VFA issued a decision to recall 05 unsafe food products manufactured at Vinh Dien Pharmaceutical Manufacturing Co., Ltd (located in Dan Phuong district, Hanoi), including (1) Health food products Bo Hoan Duong plus (lot number: SOLO: 02.2022, MFG: 2022/05/11 – EXP: 2025/05/10); (2) Kumiko slim (the product</p>	

does not have a lot number, manufacturing, and expiry date); (3) Apple cider vinegar slim (lot number: 01.2022, MFG: 2022/02/26 - EXP: 2025/02/25); (4) Nio Slim products: the health food label Nio Slim supports slimming; (5) Stony products for enhancing physiology. Reasons for the recall include the fact that the products were manufactured at an establishment that did not have a certificate of eligibility for good manufacturing practice (GMP) and the labeling was not consistent with the publication profile. The product recall period is from 13 May 2022 to 25 May 2022. Vinh Dien Pharmaceutical Manufacturing Co., Ltd and some related traders are responsible for the recall of the above products and report to the VFA on the results of the recall.

In addition to the cases where defective goods must be recalled at the request of competent authorities, there are many cases where manufacturers and traders voluntarily and proactively recall their products after receiving information about the defects. Many products are recalled under recall programs developed by manufacturers and/or traders; such programs are posted on their websites as well as on websites of the state regulatory agencies such as the Vietnam Competition and Consumer Authority, Vietnam Register, Drug Administration of Vietnam, and Vietnam Food Safety Authority. Specifically, manufacturers and traders are gradually paying more attention to their responsibility of reporting to the competent authorities about causes of defects, remedial measures, some recalled products, and a recall plan before the implementation of a recall. These moves show an enhancement of manufacturers' and traders' awareness of complying with the law on recalling defective goods.

Discussion

Contradictions and inadequacies of the law

From the above-mentioned provisions of Vietnamese applicable laws, it appears that there are some contradictions and inadequacies in the current legal provisions of Vietnam on responsibility for recalling defective goods.

There is an inconsistency in the use of the terms "defective goods" and "unqualified goods" (or "unsafe goods") between the Law on Protection of Consumer Rights and the Law on Product and Goods Quality, causing difficulty in determining the responsibility of recalling goods of the parties involved. Besides, neither of the two laws defines "unqualified goods". Due to the inconsistent terms, it is difficult to determine which law to apply, and how to specifically apply such law to determine the responsibility for recalling goods, especially

when the Law on Product and Goods Quality only request the manufacturers/importers/sellers to recall unqualified goods upon a return request from the consumers.

The responsibility for recalling defective goods or unqualified goods is provided under different laws such as Law on Protection of Consumer Rights, Law on Product and Goods Quality, Law on Food Safety and Law on Pharmacy may also cause difficulties for the application in practice.

The legal framework governing the responsibility for recalling defective goods is still in the process of being finalized and some provisions are not yet complete, such as the determination and description of defective goods, the overlap in the power of competent state agencies; lack of technical standards and regulations to identify defective goods; regulations on goods safety apply to a final product, not to the entire process of making that product. In addition, there are still obstacles in the regulations on product traceability to determine whether the product needed to be recalled.

Another issue is the sanctions applied to violations, especially the failure to perform or improperly perform responsibility to recall defective goods are too light to deter illegal behaviors (i.e. the maximum fine may be imposed is only VND 100 million¹¹), which is not commensurate with consequences and damages caused by the violations. The civil liabilities such as compensating for damage, forcing the performance of recall responsibility, or terminating the violation are not practically effective since the legal procedures for a lawsuit are usually cumbersome and costing. Other than the administrative and civil liability, the Vietnamese laws do not provide criminal liability for violations against regulations on product recall responsibility.

Inadequacies and obstacles in the law application

Despite the certain successes achieved, there are still many obstacles and inadequacies during the

implementation of responsibility for recalling defective goods in practice. Below are some typical cases:

The first case:¹²

Box 3 Hame soft moisturizing anti-cracking cream is still traded on the market after being recalled

Information of the case: In April 2022, the Department of Health of Thanh Hoa province sent a document to businesses and cosmetic users in the province on the suspension of circulation and recall of Hame soft moisturizing cream 10g since the product does not meet quality requirements of the microorganism limit in cosmetics as prescribed in Circular No. 06/2011/TT-BYT dated 25 January 2011 of the Ministry of Health and the ASEAN Cosmetics Agreement. Accordingly, the Department of Health decided to recall the “Hame soft moisturizing cream 10g” (lot number 011020, MFG 2020/10/27 – EXP: 2023/10/27); cosmetic product announcement receipt No. 7939/20/CBMP-HN. This product has been manufactured by Ivypharma Pharmaceutical Co., Ltd.

However, the owner of the brand, Ivypharma Pharmaceutical Co., Ltd still did not comply with the authority’s request, and the product was still widely sold on the market after the recall request has been issued.

The second case:¹³

Box 4 Go Lean Detox tea contains banned substances, Mat Xi S.G denies responsibility for recalling products?

Information of the case: In December 2018, immediately after finding out (via the Internet) that the Food Safety Authority under the Ministry of Health has issued a decision to recall 2 batches of Go Lean Detox weight loss tea products of Mat Xi S.G Co., Ltd due to its containing of the banned substance Sibutramine, Ms. Thuy (representative of a retail merchant) contacted the company to return the products she had taken earlier. However, according to Ms. Thuy, the company denied recalling 15 boxes of products for the reason that the recall period has expired.

The Head of the Market Management Department representing Mat Xi S.G. Co., Ltd said to Ms. Thuy that this product lot was produced by the company before July 2018 and the company has publicly announced the deadline to recall the product which is 15 September 2018. Since the recall period has expired, the company denied recalling the product.

Responding to the question posed by a reporter about what action the company will do if there is any person who did not know about the recall announcement of the company being harmed by using the product, the company’s representative answered: “the company will not be responsible for any legal responsibility as well as harm to customers caused by the product because the recall period has expired” (!).

The third case:¹⁴

Box 5 Announcement of faults from car manufacturers

Information of the case: In May 2011, Toyota Vietnam announced a recall program for 66,000 Innova and Fortuner cars due to technical errors and apologized to Vietnamese consumers. However, the person who discovered and announced the technical errors was not Toyota Vietnam itself but engineer Le Van Tach, an employee working at the Toyota factory in Vinh Phu province.

In June 2016, Truong Hai (THACO) announced a recall of over 10,000 Mazda 3s because of a soot error on the injectors that caused the engine warning lights to glow. The person who discovered and announced the technical error was not the company but a consumer.

It can be seen that there has not been much change on the side of car manufacturers in self-transparent technical errors. Most manufacturers have tried to avoid a public announcement of technical errors and recall programs because, in addition to the reputational impact, each recall program requires a huge expense for tools and spare parts of the products.

It shows through the above cases that there are still many shortcomings and limitations in the process of implementing the responsibility of recalling defective goods from manufacturers and traders.

Firstly, there is still a lack of active implementation of recall programs from manufacturers and other related traders. Unlikely in other countries, the process of recalling defective goods in Vietnam is usually conducted slowly and requires the involvement of other parties such as consumers, the press, and state management agencies. It is rare to see traders voluntarily reporting and implementing a recall program, they usually fulfill this responsibility when defective goods are discovered and reflected by consumers or other parties.

Secondly, there are many disclaimers of responsibility for recalling defective goods from the manufacturers' side. The manufacturer may opine that they have been granted safety certifications from competent authorities, parts and techniques for the goods are made by other traders, or the recall period has expired and no actual damage has occurred. Some entities responsible for recalls even seem to be unaware of their legal responsibility for recalling products despite that it is provided under the laws.

In addition to the lack of active implementation of product recalls from manufacturers and traders, there are shortcomings and difficulties from state management agencies and consumers. The supervision and coordination among the state management agencies for the responsibility of recalling defective goods of traders is not really strict and practically effective. The case of the Minh Chay pâté product recall of New Lifestyle Co., Ltd in 2020 is a typical example of the lack of coordination between competent authorities. In this case, there were three departments involved in management roles, including the Department of Agriculture and Rural Development (MARD), the Department of Industry and Trade, and the Department of Health of Hanoi. The Department of Industry and Trade believed that the issuance of food safety certificates belongs to MARD and MARD should be responsible for inspecting and taking product samples for testing. Meanwhile, the MARD said that the focal point to conduct the inspection was the Department of

Health. At the ministerial level, there was also a "circle" among the Ministry of Agriculture and Rural Development, the Ministry of Industry and Trade, and the Ministry of Health in coordinating the settlement of the case, which led to a long and slow handling process.¹⁵ Besides the role of competent state agencies, the consumers are also a part of obstacles. A lot of Vietnamese consumers are still indifferent to the risks and harmful effects of defective goods. In practice, when a recall program of defective cars is implemented due to technical defects, there are not many people taking their cars to the stores for defect checking.

Causes of inadequacies and limitations in the law application

The first reason is that the legal framework governing the responsibility for recalling defective goods is provided under different laws and most of the provisions are under the completing process with many lacks, such as the determination and description of defective goods, technical standards, and regulations to identify defective goods and the overlap in management competence of state agencies. It is difficult to identify the responsibility of the manufacturer and trader to recall defective goods or compensate for damage (if any damage occurs).

In addition, the sanctions applied to individuals and organizations failing to perform or improperly perform their responsibility to recall defective goods are too light and not commensurate with the consequences and damage caused by violations. In most cases, the reputation of manufacturers and traders may be adversely affected for a short period due to consumers' complaints, but their liability seems to be too light from the legislation perspective.

Another cause for the inadequacies and limitations in the law application of recalling defective goods in Vietnam is the manufacturer's and traders' mindset and attitude towards recall programs. As a matter of fact that a recall program may cause traders' financial losses (costs spent to recall products, costs of implementing measures to remedy defects, etc.) and reputation reduction, most manufacturers and traders try to avoid implementing this responsibility.

Regarding consumers' sense of self-protection, it appears that many consumers do not put enough attention and awareness of their

rights and obligations when using goods and when a defective good is being recalled. This has resulted in a small percentage of recallable defective goods in the total number of recalled units, partly due to the apathy of consumers.

The last reason is the monitoring and supervision of the recall process have not been strictly performed by competent authorities, leading to an insufficient deterrence against violators. Furthermore, the overlap in regulations on the power of competent authorities makes the coordination among state agencies inefficient. The People's Committees at provincial and state levels have not shown much of their role as a management agency to protect the interests of consumers due to the absence of specific provisions on duties and powers of the People's Committees under the applicable laws.

Some recommendations and conclusions

To improve the efficiency of implementing responsibility for recalling defective products, it is necessary to have synchronous solutions to legal regulations and improve the enforcement consciousness of traders.

Proposing to improve the legal framework on liability for recalling defective products

In order to effectively implement the responsibility of recalling defective products of traders, it is necessary to first complete the legal framework for this type of liability in the following directions:

Firstly, there is a specific and uniform regulation between the laws on the concept of "defective goods" and "unqualified goods" to have a basis for applying and solving actual cases. Currently, the Law on Quality of Products and Goods is using the term "goods without quality assurance", while the Law on Protection of Consumer Rights uses the term "defective goods". Thus, those definitions cause difficulties in application. There is a need to adjust for uniform use of only one concept and must go from the original law - the Civil Code 2015 to the Law on Consumers Protection and the other specialized laws. In essence, in case the legislators aim at the general purpose of managing the quality of goods, so as not to allow unqualified items and products to cause damage to consumers, they should agree only one term is used, which is "non-quality goods".

Secondly, finalize and unify the legal issues of liability for recalling defective products. Accordingly, the responsibility for recalling defective products (products of poor quality) should be included in the original law,

the Civil Code (besides liability for damages), for example, it may stipulate: "Individuals or organizations that produce or trade-in defective products or fail to ensure safety for consumers must have the responsibility to recall such products". In addition, the legal issues of liability to recall defective products need to be covered in the Law on Consumers Protection, specifically: providing for measures to stop the supply of defective products to the market; determining the subject of a recall notice per the form of voluntary recall or compulsory recall; determining the subject to be notified, the contents of the trader's notice must fully and clearly show the plan revoke and diversify the types of media used to post recall notices; stipulating the scope of responsibility, whereby it is necessary to add specific provisions on remedies such as repair, replacement, refund as well as additional regulations on product handling measures after collection as returning for products that cannot be repaired or remedied or need to take measures to destroy; adding provisions on the term of responsibility as well as the case of exemption from this type of liability.

Thirdly, specify the management authority of state agencies on the responsibility of traders in the recall of defective products. Accordingly, in order to avoid overlapping authority leading to inefficiencies in management, in addition to the current decentralization of management authority, it is necessary to clearly define the authority of the Ministry of Industry and Trade. As an agency with the function and authority to protect the interests of consumers in general, the Ministry of Industry and Trade should be assigned as the focal agency responsible for managing, synthesizing, and notifying recall programs for different types of products. Other defective products that are not under the management of the Ministry of Health and the Ministry of Transport and Communication.

Fourthly, to develop sanctions to handle violations of the law on responsibility for recalling defective products more severely, enough to deter traders, in addition to administrative and civil sanctions, it is necessary to consider criminal sanctions by adding provisions on the crimes of liability to recall defective products, related to repeated violations, willful violations of the law, failure to perform timely recovery responsibility of traders.

Fifthly, supplement regulations on coordination mechanism on warning and recall of defective products between Vietnam and other countries, such as competent entities, forms of exchange, information to cooperate,

the cases need information, coordinate warnings.

Sixthly, supplementing the mechanism of class action, whereby, consumers or organizations representing consumers can initiate a class action against traders' violations of law, including the practice of law enforcement including recalling defective products.

Recommendations to increase the responsibility of traders in recalling defective products

In addition to perfecting the legal framework, to improve the efficiency of traders' implementation of the law on liability for recalling defective products, it is necessary to have solutions to improve the responsibility of traders. One of the necessary jobs is to strengthen the propaganda and dissemination of the law on responsibility for recalling defective products to traders through the organization of conferences and seminars; publishing legal documents, and monographs; building programs on radio and television such as expert talk, warning report, and recall column. Strengthen inspection, examination, and supervision of law enforcement by traders as well as strictly handle traders who have acts of non-compliance or inadequate compliance with product recall responsibilities

In addition, the State needs to invest in modern equipment for inspecting and evaluating the quality and safety of products in addition to training staff on product quality inspection and supervision. An integrated information system on recalls of defective products should be established. Recently, recalling information for each type of product is managed by different agencies: the Ministry of Health manages pharmaceuticals and cosmetics; The Ministry of Transport and Communication manages equipment and means of transport; The Ministry of Industry and Trade manages consumer goods. However, the websites of these agencies appear to be duplicative when posting recall notices. Therefore, it is necessary to build an integrated and unified information system on recalled products, making it easy for consumers to look up and find information.

REFERENCES

1. Angela Xia Liu, Yong Liu, and Ting Luo (2016), What Drives a Firm's Choice of Product Recall Remedy? The Impact of Remedy Cost, Product Hazard, and the CEO, *Journal of Marketing*, Vol. 80;
2. Japan Consumer Product Safety Act (revised in August 2011);
3. Kyungok Huh, Chul Choi Product (2016), Product recall policies and their improvement in Korea, *Management and Production Engineering Review*;
4. South Korea Framework act on consumers;
5. The Canada Consumer Product Safety Act 2010;
6. The United States (1997), Code of Federal Regulations Title 21;
7. The United States Consumer Product Safety Act (CPSA);
8. The European Parliament (2005), The General Product Safety Regulations 2005;
9. Law on Food Safety 2010;
10. Law on Protection of Consumer's Rights 2010;
11. Law on Product and Goods Quality 2007;
12. Law on Pharmacy 2016;
13. Law on Commerce 2005;
14. Decree No. 98/2020/ND-CP dated 26 August 2020 of the Government prescribing penalties for administrative violations against regulations on commerce, production and trade in counterfeit and prohibited goods, and protection of consumer rights;
15. Decree No. 115/2018/ND-CP dated 4 September 2018 of the Government prescribing penalties for administrative violations against regulations on food safety;
16. Decree No.119/2017/ND-CP dated 1 November 2017 of the Government prescribing penalties for administrative violations against regulations on standards, measurement, and quality of goods;
17. Circular No. 30/2011/TT-BGTVT dated 15 April 2011 on the environment protection and technical safety quality inspection in motor vehicle production and assembly;
18. Circular No. 45/2012/TT-BGTVT dated 23 October 2012 on the environment protection and technical safety quality inspection in motorcycles production and assembly;
19. Decision No. 2728/QD-BTY dated 3 May 2018 of the Ministry of Health on the functions, tasks, powers, and organizational structure of the Vietnam Food Safety Authority under the Ministry of Health;

20. Nguyen Thi Thu (2014), "Completing the current laws on consumer protection in Vietnam", Ph.D. thesis;
21. Vietnam Competition and Consumer Authority, List of recalled defective goods, <https://www.vcca.gov.vn/?page=sph>, logged in on 1 June 2022;
22. Vietnam Register, Motor vehicle recall information, <http://www.vr.org.vn/Pages/thong-bao.aspx?Category=7&Page=1>, logged in on 1 June 2022;
23. Drug Administration of Vietnam, Warning and Recall, <https://dav.gov.vn/canh-bao-va-thu-hoi-cn81.html>, logged in on 1 June 2022;
24. Vietnam Food Safety Authority, Food safety warning, <https://vfa.gov.vn/tin-tuc/canh-bao-san-pham-max-health-go-coffee-ca-phe-insert-coffee-to-begin-co-chua-sibutramin.htm>;
25. Vietnam Food Safety Authority, Inspection news, <https://vfa.gov.vn/thanh-kiem-tra/thu-hoi-05-san-pham-thuc-pham-khong-dam-bao-an-toan-duoc-san-xuat-tai-cong-ty-tnhh-san-xuat-y-duoc-pham-vinh-dien.html>;
26. "Recalled cosmetic is still widely traded on the market", <https://congthuong.vn/hop-thu-ngay-234-my-pham-kem-chat-luong-bi-thu-hoi-van-tran-lan-tren-thi-truong-175903.html>, logged in on 4 June 2022;
27. "Go Lean Detox tea contains banned substances", <https://www.phapluatplus.vn/dieu-tra-ban-doc/tra-go-lean-detox-chua-chat-cam-mat-xi-sg-phui-trach-nhiem-khi-thu-hoi-san-pham-d88955.html>, logged in on 4 June 2022;
28. "Vehicle recall in Vietnam, great responsibility towards consumers", <https://thuxe.vn/en/car-review/trieu-hoi-xe-o-viet-nam-trach-nhiem-lon-doi-voi-nguoi-tieu-dung>, logged in on 12 October 2019;
29. Phuong Thao (2020), <https://dantri.com.vn/xa-hoi/co-quan-ca-nhan-nao-chiu-trach-nhiem-vu-pate-minh-chay-20200904201924594.htm>; L.Anh, X. Long, C. Tue (2020), <https://tuoitre.vn/vu-ngo-doc-hang-loat-vi-pate-minh-chay-cac-so-da-trach-nhiem-2020090121435101.htm>.