

Article

Managing the digital economy: The case of Vietnam

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Abstract: The digital economy is experiencing rapid growth and holds the potential to draw a substantial number of participants in Vietnam currently. Nonetheless, despite the advantages it offers, the digital economy is also confronted with numerous risks, legal infractions, and complexities that present challenges to the government's management endeavors. Consequently, this article conducts research on the management of Vietnam's digital economy in the present context, with the aim of pinpointing its limitations and shortcomings, and puts forth recommendations to improve the effectiveness of managing this new and critical economic landscape.

Keywords: law; digital economy; e-commerce; technology; international integration

1. Introduction

In the current period, e-commerce activities in the digital economy platform are thriving and proliferating in Vietnam [1]. One significant advantage of the digital economy is that businesses can conduct economic activities easily. Furthermore, in many cases, individuals can use unique production resources such as their singing voices, sporting abilities, creative entertainment programs, learning experiences, and captivating shared knowledge. These talents can attract considerable attention and followers, generating substantial profits from social media platforms. Concurrently, the development of the digital economy has led to the flourishing of e-commerce activities. In fact, there has never been a period where online buying and selling goods have seen such robust growth as in Vietnam today.

However, alongside its advantages, digital economic activities have also led to numerous legal violations in intellectual property, commerce, taxation, and criminal activities. Furthermore, research indicates that "Vietnam is a country with fast economic development" [2]. On the other hand, after years of active participation in international integration, "Vietnam has become a member of organizations and free trade agreements such as the Association of Southeast Asian Nations (ASEAN), the Asia-Pacific Economic Cooperation (APEC), the Asia-Europe Meeting (ASEM), the World Trade Organization (WTO), the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), and the Vietnam - European Union Free Trade Agreement (EVFTA)" [3]. This further facilitates the robust and long-term development of e-commerce and the digital economy in Vietnam. Therefore, researching the management of the digital economy in Vietnam in the current period is becoming increasingly crucial. A properly managed digital economy creates opportunities for economic and social development and, at the same time, contributes to opening up favorable investment opportunities for investors from around the world.

2. Literature review

The digital economy is a topic that attracts the attention of many researchers in Vietnam. This is not only a subject within the field of economics but also of interest to various other scientific disciplines such as law, sociology, etc. On the other hand, given the context that Vietnam's economy is still in a developmental phase toward an appropriate direction, activities related to this novel economic aspect are consistently covered by the media [4]. Therefore, within the scope of limitations, typical research related to the digital economy can be found, such as Le Danh Vinh [5] with "Improving institutions on Vietnam's business environment"; Nguyen [6] with "Copyright protection in the digital environment—the experience of applying Hadopi law of the French Republic"; Vietnambiz [7] with "What is digital economy? Understand more about the digital economy"; Hung and Nguyen [1] with "Impact caused by digital economy on legal system of intellectual property rights in Vietnam"; E-magazine Law Informer [8] with "Income of 80 billion VND thanks to YouTube and Google but has not paid taxes or access sources"; Tuoi Tre News [9] with "The young man proactively paid 23.5 billion VND in tax and "The tax authorities were surprised and did not know how to collect it"; Vietnamnet [17] with "Huge tax revenue loss from e-commerce"; Lam [10] with "Prevent infringement of intellectual property rights in e-commerce".

Overall, the previous research works have provided an overview of the digital economy landscape in Vietnam during the current developmental phase. Concurrently, these studies have identified some limitations and shortcomings in legal regulations. However, due to the diversified nature of the research covering various issues, the matter of managing the digital economy has not been comprehensively, clearly, and thoroughly addressed. Therefore, building upon and expanding from prior research, the author group focuses on researching the management of the digital economy to specifically highlight the limitations and shortcomings and propose suitable solutions tailored to Vietnam's conditions.

3. Research methods

To explore the management of the digital economy in Vietnam, this study uses a combination of traditional research methods from the fields of social sciences and legal studies. These methods include legal analysis, effectiveness assessment, comparison, and sociological investigation.

Firstly, the legal analysis method is applied to examine the current legal framework governing the digital economy in Vietnam. This involves a detailed review of key laws, such as the Law on Commerce 2005 [11], the Intellectual Property Law 2005 [12], and the Personal Income Tax Law 2007 [13]. By analyzing these legal texts, the study identifies existing provisions related to digital commerce, intellectual property, and tax management, highlighting areas where the laws are insufficient or outdated. This method helps to pinpoint legal loopholes and inconsistencies that hinder the effective management of digital economic activities.

Secondly, the legal effectiveness assessment method is used to evaluate how effectively these laws are implemented in practice. This method assesses the implementation of legal regulations by examining reports, case studies, and media coverage of legal violations in the digital economy. The study looks at issues such as

tax evasion by online businesses, intellectual property infringements on e-commerce platforms, and violations of criminal law in digital spaces. By assessing the enforcement capabilities of regulatory bodies like the General Department of Taxation and the Intellectual Property Office of Vietnam, the study sheds light on the practical challenges faced by these institutions.

The legal comparison method is employed to compare Vietnam's legal framework with those of other countries that have more developed digital economies. This comparative analysis focuses on countries like France, with its Hadopi Law for copyright protection, and Australia, with its regulations for taxing digital platforms. By examining these international practices, the study identifies best practices and potential policy measures that could be adapted to Vietnam's context.

Lastly, the sociological investigation method is used to capture the perspectives of various stakeholders involved in the digital economy. This includes analyzing qualitative data from interviews, surveys, and case studies featuring business owners, content creators, legal experts, and regulatory officials. These insights help to understand the real-world implications of digital economy management, such as the challenges of tax compliance for online businesses and the difficulties of protecting intellectual property rights on social media platforms.

By employing these methods, the study provides a thorough analysis of the digital economy in Vietnam, addressing its limitations and offering practical recommendations for more effective management.

4. Results and discussion

4.1. The necessity of managing the digital economy in Vietnam

Vietnam has strongly supported digital transformation as a key national strategy since the early 2000s [14]. The government has actively invested in technology and innovation to enhance digital infrastructure, create favorable policies, and develop a digital economy [4]. In essence, "the digital economy is an economy primarily driven by digital technology" [7]. Alternatively, it can be perceived as an economy that operates based on interconnected communication devices within computer networks. In this context, business entities only need to use internet-connected end devices to carry out commercial activities aimed at generating profits. Therefore, since "the presence of the internet has created a unique environment—a digital environment" [6] closely associated with distinctive, innovative, and novel business sectors, professions, and fields based on the digital economy platform. Currently, business sectors based on internet-connected communication devices are identified as e-commerce.

The digital economy is thriving not only in Vietnam but also globally due to its substantial economic advantages [15]. Business entities, equipped with a basic understanding of internet-connected information transmission tools, can utilize the online network environment to advertise products and services or even provide services closely tied to individuals, such as music, dance, singing, painting, and more. They can also participate in discussions, reviews, and evaluations of topics currently in the social spotlight. Numerous content creators even venture to event venues to create online content aimed at attracting viewers.

As mentioned, content creators can generate profits from social media service providers as long as there are viewers (views), likes, and subscribers. Due to its simple operating mechanism, ease of exploitation, and low production costs, the digital economy is rapidly developing and continues to attract the participation of many people. In other words, the digital economy is a virtual economy that generates real economic value and efficiency for those who engage in it.

However, the digital economy is a relatively new phenomenon worldwide and is even more nascent in Vietnam [4]. Therefore, legal regulations and management of this emerging economic sector seem to have received insufficient attention or remain somewhat unclear, leading to legal loopholes. In fact, Vietnam's Law on Commerce was enacted quite some time ago, and many aspects related to e-commerce activities have not been adequately addressed (the Law on Commerce 1997 [16] and the Law on Commerce 2005 (amended and supplemented in 2017 and 2019) almost do not mention the content of e-commerce). Consequently, numerous digital economy activities in Vietnam have impacted tax collection and compliance with legal regulations in various areas, resulting in significant revenue loss. This situation has been continuously highlighted by the media, with reports indicating that "the rapid development of the digital economy has increased the complexity of tax collection and management, leading to unequal competition" [17]. Research shows that without effective management of the digital economy in Vietnam, economic entities engaging in digital activities may violate legal provisions such as

Violations in intellectual property law: research indicates that currently "protecting copyrights, trademarks, and industrial designs has become more difficult and complex" [18]. This is because the digital environment facilitates the illegal copying and downloading of content for personal use, as well as the easier replication and alteration of well-known trademarks and protected technological designs, resulting in more significant harm to the legitimate rights of the rights holders" [6]. On the other hand, "the technological environment directly influences and affects the regulations of intellectual property laws" [19]. Issues such as unlimited replication and duplication of works and documents, unauthorized modification or editing of works without the owner's permission, or unauthorized downloading of works and documents without the owner's consent all have a significant impact on the legal rights and interests of the owners" [1]. This showcases that intellectual property infringement in the digital economy is becoming increasingly diverse, complex, and extensive, with perpetrators employing more sophisticated and cunning methods and tactics than ever before.

In addition, it is necessary to mention behaviors such as "counterfeiting", "imitating", and "replicating" famous brands, which have a significant impact on intellectual property rights. For a long time, well-established confectionery brands in Vietnam, such as Choco-pie, have been imitated as Choco-pai; Danisa as Damisa; Oishi as Oshi; and Alpeliebe Original as Alpeliebe OY, with packaging, sizes, and appearances nearly identical to the originals. Similarly, renowned producers of seasonings like Ajinomoto, Vedan, and Miwon have also faced quite sophisticated counterfeiting attempts [20]. With increasingly advanced and modern printing technology and effective promotional communication, the production of counterfeit products has become more intricate and perfected. This can easily deceive consumers,

and many retail distributors in remote and mountainous regions lacking experience are susceptible to being exploited as channels for distributing fake, imitation, or low-quality goods. According to information from the Intellectual Property Office of Vietnam, “intellectual property violations primarily fall into groups such as infringement of industrial property rights, including trademarks, trade names, and business names in the e-commerce environment; unfair competition related to domain names; and advertising of goods that infringe intellectual property rights” [10]. Furthermore, the exploitation of social media to rapidly share information has led to issues “where entities are ‘broadcasting attractive television programs, movies, or sporting events’ without permission, which significantly impacts the intellectual property rights of producers or organizing entities. Using free personal information websites, infringing entities can easily live-stream copyrighted television programs” [1]. It is evident that numerous activities within the digital economy infringe upon intellectual property rights, causing severe harm to legitimate businesses. Simultaneously, this impacts the rights and legal interests of unwitting consumers who inadvertently use such counterfeit products and services.

In addition to its detrimental impact on Vietnam’s economy and societal fabric, the digital economy can pose obstacles to the government’s strategic goal of attracting and enticing foreign investors to engage with Vietnam. This arises from the inadequacy of the legal framework, specifically about intellectual property and the broader legal ecosystem, in effectively thwarting and rectifying unlawful activities. As a consequence, this deficiency curtails the scope of innovative and technology transfer endeavors from foreign nations into Vietnam. This limitation stems from foreign investors’ apprehensions regarding their intellectual property rights and cutting-edge technological assets. These concerns arise when Vietnamese law does not sufficiently safeguard their rights and interests. This predicament, in turn, inflicts considerable economic damage on Vietnam’s economic landscape. Furthermore, it diminishes the nation’s allure as a destination for foreign investment.

Tax management in Vietnam is currently challenging and complex, particularly for individuals engaged in online businesses [21]. The intricate regulatory framework and difficulties in tracking and assessing online transactions make tax compliance a significant issue for these businesses. The lack of clear guidelines and effective enforcement mechanisms further complicates the process, resulting in confusion and inconsistent implementation. Conversely, the tax rates applicable to individuals conducting online business activities remain notably low. Article 4 of Circular No. 40/2021/TT-BTC, dated 1 June 2021, states that individuals selling goods online are only required to pay a value-added tax (1%) and personal income tax (0.5%) if their online sales revenue exceeds 100 million Vietnamese dong per year. However, e-commerce practices have demonstrated that tax assessment can only be feasibly conducted if the business entities buy and sell goods on significant e-commerce platforms subject to legal oversight and regulation. In reality, the majority of online business activities in Vietnam tend to occur on free social media platforms that attract a large user base, such as Instagram, Viber, Facebook, Zalo, TikTok, Twitter, and others. Most of these social media platforms are free, making them capable of attracting a large user base, and consequently, these free social media platforms have become online marketplaces. The noteworthy issue is that if dishonest business entities

do not truthfully report their activities and actual income, tax management becomes very challenging, intricate, and complex. Furthermore, as mentioned earlier, with the economic benefit-sharing agreements between media service providers and social media content creators, an increasing number of Vietnamese individuals are participating in the production of entertainment programs on social media. The number of content creators and viewers is consistently substantial on platforms such as YouTube, Google, TikTok, and others. Additionally, the variety of program themes, ranging from language instruction, cooking lessons, historical, economic, social, informational, sports, and entertainment content, and product and service reviews, has the potential to attract the interest of a broad audience. This has gradually created new professions for those who regularly produce content online. New terms such as “YouTuber” and “TikToker” have become increasingly familiar in Vietnamese social life.

What’s worth noting is that the income of YouTubers and TikTokers is substantial, and in some cases, their earnings far exceed the average income in Vietnam. In fact, in recent times, public opinion has been quite surprised by the incomes of online businesses, which often surpass the imaginations of many. However, there are still many individuals conducting business on major social media platforms like YouTube and Google, earning thousands of times more than the average income of Vietnamese citizens, yet not paying taxes [8]. Part of the reason for this is the difficulty that state management agencies face in investigating and verifying business activities on social media platforms. Additionally, “it reflects the unpreparedness and surprise of tax authorities” [9]. Moreover, it is evident that promotional endeavors and advertising activities carried out on social media platforms like YouTube, Google, Yahoo, and Facebook have become increasingly appealing to manufacturers and service providers. These social media platforms typically boast extensive user bases and follower counts, rendering them exceptionally swift and effective channels for marketing. Nevertheless, the transition of producers and enterprises in Vietnam from conventional advertising mediums (television and newspapers) to social media advertising has introduced intricacies and taxation management challenges. This complexity arises from the fact that Vietnamese tax authorities frequently confront hurdles and complications when collaborating with social media providers, which are predominantly situated on overseas servers and operated by foreign entities. This collaboration aims to discern contracts, content, and advertising timetables of entities based in Vietnam.

On the other hand, even major social media platforms such as Google and Facebook share advertising programs to collect advertising fees from providers and producers of goods and services. However, they do not pay taxes to the state or share economic benefits with domestic media and press agencies, which is a topic of global concern, as exemplified by the Facebook case with the Australian government. Consequently, this represents a partial loss of significant tax revenue as advertising entities, businesses, and social media platforms evade or deceitfully report their taxes to the government. The consequence is that the state is losing tax revenue by the day, which in turn encourages producers and businesses to shift their advertising from traditional media such as television and traditional press to social media platforms.

In addition, the use of the digital economy to create various forms of sharing economy, such as Grab, BeBike, Uber, Airbnb, and even condotels and “officetels”, is becoming increasingly widespread and diverse. Furthermore, the digital economy has contributed to the emergence of the digital currency market (cryptocurrency). Research indicates that digital currencies “are also forms of the digital economy when electronic information networks are used for conducting business in order to generate profits for service providers, service performers, and customers” [1]. However, despite the numerous benefits that the digital economy brings to its participants, from a tax obligation perspective for the state and in terms of social wealth distribution, it is evident that online business operators have enjoyed more tremendous advantages compared to traditional business operators who report their income honestly, for example, government officials, civil servants, and employees with regular, fixed incomes.

Violation in criminal law [22]: it is evident that activities such as organizing gambling, betting, and online gaming on the Internet are becoming increasingly sophisticated, complex, and prevalent in Vietnam. Those involved in online gambling do not require specific time or location preparations to conduct their operations; instead, they can easily engage in these activities discreetly and safely. With just a few pieces of information, gambling, betting, and online lottery activities can be carried out swiftly on the Internet. Organizing online gambling activities poses significant challenges and complications for relevant state authorities because it is difficult to trace and identify those responsible for organizing and participating in gambling activities.

Furthermore, some actions involve advertising on the Internet with unhealthy content, contravening social ethics. These include incitement of violence and sexual content through harmful videos and obscene materials, as well as the use of social media to sow hatred, incite riots, provoke conflicts between nations, ethnicities, and religions, or threaten personal and social security. Additionally, there are instances of advertising for hire, contract killings, payments, and debt collection on social media. Most of these actions violate criminal law regulations and have an impact on and pose threats to public order and social security. They lead to anxiety and foster hostility and division among many individuals. Consequently, social media has become a convenient tool for dissenting individuals and those intentionally violating the law to exploit and manipulate. From a legal perspective, as analyzed earlier, preventing and handling these behaviors often encounters numerous difficulties and complexities. In many cases, the individuals responsible for such criminal activities do not reside within Vietnam’s territory, or the servers hosting harmful website content are located abroad. This complicates the management and handling of high-tech criminal offenses. Therefore, without a doubt, social media and the digital economy have become double-edged swords when used for malicious purposes or acts of sabotage. Consequently, stricter regulation of digital economic activities is increasingly necessary.

4.2. Recommendations

In the existing circumstances, “most countries worldwide have open economies. The modern global economy is increasingly interconnected among nations” [23]. Additionally, “the interdependence between the Vietnamese economy and the global economy is on the rise” [5]. Therefore, it can be asserted that the development of the digital economy is both a necessity and an obligatory trend for the socio-economic development of Vietnam in the current and long term. However, as previously analyzed, alongside its advantages and conveniences, the digital economy also has its share of limitations and shortcomings. Thus, effective measures are required to efficiently leverage, exploit, and manage the digital economy. Consequently, the authors suggest that to manage the digital economy in Vietnam effectively, it is necessary to consider the following solutions:

Firstly, for Vietnam’s intellectual property and criminal law system:

The safeguarding of intellectual property rights through the framework of criminal law holds significant importance. As discussed earlier, the activities conducted by various entities within the digital economy can exert a profound influence on the lawful interests and rights of legitimately operating businesses, copyright holders, and consumers. Consequently, addressing illicit practices stemming from digital economic activities necessitates the utilization of criminal law as an effective means of prevention and deterrence.

In light of these considerations, the authors propose two key measures. Firstly, they recommend the augmentation of penalties for transgressions related to intellectual property rights and industrial property rights. Secondly, in order to align with the prevailing circumstances in Vietnam and proactively combat potential emerging digital economic offenses, it is imperative for criminal law to engage in ongoing research, comprehension, and expansion of the legal framework concerning digital economy-related offenses. Furthermore, the reinforcement of oversight, examination, and supervision efforts about commercial activities conducted on personal websites and social media platforms that have the potential to encroach upon the intellectual property rights of individuals and organizations is deemed essential.

Secondly, enhance the management of online businesses on social media to curb fraudulent activities and tax evasion.

In hindsight, when the Law on Personal Income Tax was introduced in 2007 (subsequently amended in 2012 and 2014), digital economic activities were not as prevalent, extensive, rapid, and robust as they are today. However, as previously discussed, the advent of information technology has led to social media platforms becoming increasingly interconnected, sometimes even replacing traditional media like television and radio. Consequently, engaging in advertising and business activities on social media might not have been as straightforward, convenient, and accessible as it is today. Nonetheless, as mentioned earlier, it’s not just manufacturers and businesses that partake in advertising; social media platforms themselves often lack cooperation and coordination with tax authorities. Conversely, tax authorities encounter significant challenges and confusion when attempting to identify tax-evading businesses operating within the realm of social media.

Hence, the authors emphasize the immediate need to provide training and enhance the technological and managerial expertise of tax officials and public servants in the tax sector. Additionally, regulations on collaboration between tax authorities and social media platforms should be established and disseminated. These regulations must include mandatory provisions obliging social media platforms operating in Vietnam to register their activities and promptly provide accurate, comprehensive, and transparent information upon request by tax authorities. In cases of non-compliance with these regulations, stricter measures such as blocking their internet protocol (IP) addresses to halt their operations in Vietnam should be considered. Furthermore, a simplified, user-friendly tax registration and declaration process should be developed for online businesses on social media platforms. This approach would facilitate these businesses in willingly fulfilling their tax obligations. However, in parallel with these measures, there should be an escalation in criminal and administrative penalties for individuals or entities deliberately failing to declare their tax responsibilities.

5. Conclusion

Vietnam's digital economy has rapidly grown, highlighting the urgent need for a solid and practical regulatory framework. The current legal structure, while evolving, faces significant challenges in addressing the complexities of e-commerce and the digital landscape. This intricate landscape presents challenges for governmental agencies tasked with management and oversight, mainly due to the limited prior experience in regulating e-commerce activities within the existing legal framework. Given the pace of digital transformation, Vietnam must establish comprehensive and adaptive laws that effectively regulate the digital economy. Furthermore, the openness of conducting commercial transactions on social media has led to a notable increase in legal infractions related to intellectual property, taxation, and criminal regulations. To address these concerns, it is imperative for Vietnam to strengthen its regulatory framework, ensuring it is robust, forward-looking, and capable of addressing emerging legal issues from the digital economy. In response to these challenges, the paper proposes targeted solutions that would enhance the current legal framework to ensure it can meet the needs of a rapidly digitalizing economy.

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