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Towards responsible governance of algorithmic display systems in e-commerce: Legal challenges and policy responses in Vietnam

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Abstract: Current ranking and recommendation systems determine which products and sellers appear on e-commerce platforms, thereby influencing the distribution of market opportunities and consumer attention. This article is planned to solve a single question: how should Vietnamese law govern algorithmic display systems, given the present enforcement capacity of Vietnamese regulators and the legitimate confidentiality interests of platform operators? The study employs a qualitative legal

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analysis of Vietnam's Law on E-commerce (No. 122/2025/QH15), Law on Competition (No. 23/2018/QH14), and Law on Protection of Consumer Rights (No. 19/2023/QH15); compares the legal frameworks of the European Union, the United States, and China based on ten common criteria; and conducts a policy analysis regarding institutional feasibility. The study yields three main findings. First, Vietnamese law imposes disclosure duties in Article 15(1)(dd) and Article 11(3) of the 2025 Law on E-Commerce and Article 10(3)(b) of the 2023 consumer law, without defining ranking or recommender systems, so that the object of the duty remains legally indeterminate. Next, the power to demand an algorithm description under Article 17(3)(d) of the 2025 Law is purely reactive and is not supported by any record-retention duty, leaving regulators without the very evidence the power presupposes. Then, the five-day notice under Article 17(2)(g) requires a warning but not a statement of reasons, so a demoted seller learns that a restriction is coming without learning why. The article's contribution lies not in the three governance principles it deploys transparency by design, algorithmic choice, and risk-based accountability which are all established in the literature, but in their integration into a graduated conditional accountability model in which baseline duties bind every platform while enhanced duties attach only upon defined risk triggers. The article outlines the necessary activation factors, the retention period for audit purposes, the competent authorities, and the evidentiary consequences of non-compliance.

Keywords: Algorithmic Accountability, Ranking Systems, Recommender Systems, Self-Preferencing, Platform Governance, Digital Services Act, Digital Markets Act, Comparative Law, Consumer Protection, Vietnam

1. Introduction

On modern online shopping platforms, the way products are displayed is not merely a random outcome of transactions but a mechanism for distributing market opportunities. Ranking and recommendation systems determine which sellers secure prime real estate such as the homepage image carousel, the first page of search results, or personalized feeds and which are relegated to less visible positions where they become virtually invisible in the marketplace. These systems do more than just match supply with demand; they shape the choice architecture within which consumers make decisions and do so with a speed and granularity that far exceeds the oversight capabilities of traditional law enforcement processes³ Platform orchestrators can control the information flows and standards governing their own ecosystems, thereby further deepening the information asymmetry between the operator on one side and consumers and third-party sellers on the other.⁴

There are three legal risks to consider. First, ranking systems can blur the distinction between organic search results and paid placements, making it difficult for consumers to identify commercial content. Furthermore, extensive personalization based on behavioral data can lead to disparities in offered transaction terms, raising concerns regarding transparency and fairness in automated decision-making processes.⁵ Finally, for hybrid platform models where the operator acts as

³ WEI, R., and GEIGER, S. "Algorithmic agencing in platform markets". *Marketing Theory*, v. 25, n. 3, 2025, pp. 403-421. <https://doi.org/10.1177/14705931241275558>

⁴ SIMONE, C., LAUDANDO, A., and SCARDINI, S. "Digital platform ecosystems: A systemic view of power wielded by the platform orchestrators over complementors". *Industrial Marketing Management*, v. 131, 2025, pp. 31-45. <https://doi.org/10.1016/j.indmarman.2025.10.001>

⁵ STANDING COMMITTEE OF THE NATIONAL PEOPLE'S CONGRESS OF THE PEOPLE'S REPUBLIC OF CHINA. Personal Information Protection Law (English translation, DigiChina, Stanford University), 2021. Art. 24. Available at: <https://digichina.stanford.edu/work/translation->

both an intermediary and a competitor selling its own products, the display system can be exploited to prioritize the operator's goods; such practices are difficult to detect through observable market indicators alone and are, consequently, hard to prove.⁶

Globally, regulators have begun to view ranking and recommendation systems as subjects for legal oversight, though the rationales for doing so vary. In the European Union, Article 27 of the Digital Services Act requires online platform providers to clearly outline the main parameters of their recommendation systems in their terms and conditions, as well as the options available for users to adjust these parameters. Meanwhile, Article 38 mandates that large online platforms offer at least one option that does not rely on user data.⁷ Regulation (EU) 2019/1150 (the P2B Regulation) addresses a different relationship altogether, obliging providers of online intermediation services to disclose the main ranking parameters to their business users.⁸ The Digital Markets Act operates on a third tier, under which preventive obligations including the ban on self-preferencing set out in Article 6(5) apply only to large enterprises designated as gatekeepers.⁹ These are three distinct instruments targeting three different groups of entities, and the analysis in Section 4 will clearly distinguish between them.

The United States employs a distinct approach that relies on ex-post enforcement rather than ex-ante regulation, although it would be inaccurate to view this as a uniform model across the entire country. Section 5 of the Federal Trade Commission Act supplies a general prohibition on unfair or deceptive acts, applied to display through the Commission's 2015 Enforcement Policy Statement on Deceptively Formatted Advertisements;^{10,11} the Sherman Act addresses monopolisation;¹² and a growing body of state law operates alongside both. The California Privacy Protection Agency's regulations on automated decision-making technology, adopted in 2025 under the California Consumer Privacy Act, confer pre-use notice, access and opt-out rights in respect of certain significant decisions, but they bind only businesses within

personal-information-protection-law-of-the-peoples-republic-of-china-effective-nov-1-2021/ (accessed 18 September 2026).

⁶ JURGENSMEIER, L., and SKIERA, B. "Measuring Self-Preferencing on Digital Platforms". *Journal of Marketing*, 2025. <https://doi.org/10.1177/00222429251360772>

⁷ EUROPEAN PARLIAMENT AND COUNCIL OF THE EUROPEAN UNION. Regulation (EU) 2022/2065 (Digital Services Act), OJ L 277, 27.10.2022, Art. 27 and 38. The obligation applies only to very large online platforms and very large online search engines designated under Art. 33. Available at: <https://eur-lex.europa.eu/eli/reg/2022/2065/oj> (accessed 18 September 2026).

⁸ EUROPEAN PARLIAMENT AND COUNCIL OF THE EUROPEAN UNION. Regulation (EU) 2019/1150 on promoting fairness and transparency for business users of online intermediation services, OJ L 186, 11.7.2019, Art. 5; the definition of "ranking" is in Art. 2(8). Available at: <https://eur-lex.europa.eu/eli/reg/2019/1150/oj> (accessed 18 September 2026).

⁹ EUROPEAN PARLIAMENT AND COUNCIL OF THE EUROPEAN UNION. Regulation (EU) 2022/1925 (Digital Markets Act), OJ L 265, 12.10.2022, Art. 6(5); the designation procedure is in Arts. 3 and 4. Available at: <https://eur-lex.europa.eu/eli/reg/2022/1925/oj> (accessed 18 September 2026).

¹⁰ UNITED STATES. Federal Trade Commission Act, 15 U.S.C. § 45 (1914). Available at: <https://www.ftc.gov/legal-library/browse/statutes/federal-trade-commission-act> (accessed 18 September 2026).

¹¹ FEDERAL TRADE COMMISSION. Enforcement policy statement on deceptively formatted advertisements. 2015. Available at: <https://www.ftc.gov/legal-library/browse/commission-enforcement-policy-statement-deceptively-formatted-advertisements> (accessed 18 September 2026).

¹² UNITED STATES. Sherman Antitrust Act, 15 U.S.C. §2 (1890). Available at: <https://www.archives.gov/milestone-documents/sherman-anti-trust-act> (accessed 18 September 2026).

that statute's jurisdictional reach.¹³ China has introduced a third approach with regulations governing algorithm-based recommendation services that require providers to inform users of the service's underlying principles and purposes, offer an option to disable the recommendation service, and register their algorithms with a state database; simultaneously, the Personal Information Protection Law establishes corresponding rights to protect users against automated decision-making.¹⁴

The legal framework in Vietnam is currently undergoing many changes and transitions. The Law on E-commerce No. 122/2025/QH15, adopted on December 10, 2025, and effective from July 1, 2026, introduces specific mandatory regulations regarding algorithmic display for the first time. Under Article 15(1)(dd), operators must disclose the key selection criteria used when the platform employs algorithms or other measures to limit or prioritize the display of goods and services. Article 11(3) requires operators of platforms with ordering functions to publicly disclose transaction terms, including policies on display prioritization. Article 17(2)(g) mandates notifying sellers at least five days in advance regarding any suspension, termination of operations, or implementation of restrictive measures. Article 17(3)(d) empowers competent authorities to require large platforms to provide transaction data and algorithmic descriptions (including design, logic, functionality, and simulations) when there are indications of legal violations arising from the platform's conduct.¹⁵ In addition to these regulations, Article 10(3)(b) of the Law on Protection of Consumers' Rights No. 19/2023/QH15 prohibits restricting consumer choice through the prioritised arrangement of products between sellers without publicizing the selection criteria. Article 39(3) imposes additional duties, including periodic assessment of content moderation and of the use of algorithmic systems and consumer-targeted advertising, on operators of large digital platforms as defined in Article 2(2) of Decree No. 55/2024/ND-CP.^{16,17}

The main issue is not a lack of regulations, but rather that they cannot be implemented effectively in their current form. The 2025 law mandates the disclosure of key selection criteria but fails to clearly define ranking systems or recommendation systems, leaving the scope of the obligations ambiguous. While the law allows authorities to request algorithmic descriptions, it does not require the retention of log files, parameter histories, or version records—data essential for reproducing or verifying those descriptions. Furthermore, the law requires advance notice of restrictions but does not mandate an explanation of the rationale behind them. In

¹³ CALIFORNIA PRIVACY PROTECTION AGENCY. California Consumer Privacy Act Regulations, Cal. Code Regs. tit. 11, div. 6, ch. 1 (including regulations on automated decision-making technology), 2025. Available at: <https://regulations.justia.com/states/california/title-11/division-6/chapter-1/article-1/section-7001/> (accessed 18 September 2026).

¹⁴ CYBERSPACE ADMINISTRATION OF CHINA. Provisions on the Administration of Algorithmic Recommendations in Internet Information Services, 2022, Arts. 16 and 17. Available at: <https://www.chinalawtranslate.com/en/algorithms/> (accessed 18 September 2026).

¹⁵ NATIONAL ASSEMBLY OF THE SOCIALIST REPUBLIC OF VIETNAM. Law on E-Commerce No. 122/2025/QH15 of 10 December 2025, Arts. 11(3), 15(1)(đ), 17(2)(g) and 17(3)(d). The Law enters into force on 1 July 2026. Available at: <https://datafiles.chinhphu.vn/cpp/files/vbpq/2026/01/luat122.2025.qh15.pdf> (accessed 18 September 2026).

¹⁶ NATIONAL ASSEMBLY OF THE SOCIALIST REPUBLIC OF VIETNAM. Law on Protection of Consumers' Rights No. 19/2023/QH15 of 20 June 2023, Arts. 10(3)(b) and 39(3). Available at: https://datafiles.chinhphu.vn/cpp/files/vbpq/2023/7/luat19_2023.pdf (accessed 18 September 2026).

¹⁷ GOVERNMENT OF VIETNAM. Decree No. 55/2024/NĐ-CP of 16 May 2024, Arts. 2(2) and 23, which define the 'large digital platform' category and detail its obligations. Available at: <https://datafiles.chinhphu.vn/cpp/files/vbpq/2024/5/55-nd-cp.signed.pdf> (accessed 18 September 2026).

short, what is missing is not the principle itself, but the evidentiary framework needed to substantiate it.

Accordingly, the research question focuses on how Vietnamese law should be reformed to enable the verification of existing obligations regarding algorithmic disclosure without imposing supervisory burdens that exceed the capacity of Vietnamese regulatory bodies, and without requiring the disclosure of information that would compromise legitimate trade secrets. Finding an answer to this problem requires a combination of comparative analysis based on design options tested elsewhere and feasibility considerations, because a regulation that Vietnamese authorities cannot implement cannot be considered an effective solution.

The article's contribution is divided into three parts, focusing specifically on the point of practical application. First, it identifies weaknesses in the implementability of the new law adopted by Vietnam, specifically: ambiguity regarding the party liable under Article 15(1)(dd); incomplete regulations on data retention related to powers under Article 17(3)(d); and the failure to require an explanation of reasons in the notification mandated by Article 17(2)(g). Second, the article translates the concept of risk-based accountability into a concrete operational framework for intermediary regulators, comprising: a defined system of risk indicators; data retention periods for auditing these indicators; the division of supervisory authority among existing Vietnamese agencies; and potential legal consequences for violations as opposed to establishing a new legal basis for content liability. Finally, through a detailed comparison based on ten variables without favoring any particular model, the paper assesses the applicability in Vietnam of design elements from other countries, identifying which are suitable and which are not, along with the institutional basis for those decisions. The article makes no claim to having originated these principles.

The argument in this article is structured as follows. Section 2 defines the subject of analysis, clarifies its distinction from related concepts, and situates the article within four academic research fields where it addresses unresolved tensions. Section 3 outlines the legal and comparative legal research methodology, explains the rationale for selecting the three jurisdictions for comparison, and details the ten factors used in the comparative analysis. Section 4 focuses on the analysis itself, organized around the three key issues previously identified: legal identity and transparency (4.1), market fairness and information manipulation (4.2), and the liability and rights of the relevant actors (4.3); this is followed by an assessment of the institutional feasibility of the proposed recommendations (4.4). Section 5 discusses the theoretical, practical, and policy implications, and identifies the empirical research needed to validate this analytical framework. These three pillars are not merely isolated proposals: identity and transparency define the subjects of regulation; rules on market fairness establish substantive criteria; and conditional accountability mechanisms provide the evidentiary and procedural tools essential to ensuring that the first two pillars move beyond mere declarations.

2. Literature review and theoretical framework

This section is organized thematically. Section 2.1 defines the object of analysis. Sections 2.2 to 2.6 set out five bodies of scholarship on market access, on transparency, on user autonomy, and on the allocation of responsibility, and, in each case, identify the point on which the literature does not agree, since it is those disagreements instead of the settled propositions that this study must resolve in order to make a recommendation. Section 2.7 states the resulting gap.

2.1 Defining algorithmic display systems: The object of analysis

The article uses the term "algorithmic display system" to refer to any automated system operated by or on behalf of an e-commerce platform that determines the

order, prominence, frequency, or availability of products, services, or sellers to users. This definition is functional in three respects. First, it is technology-neutral: methods such as rule-based sorting, statistical ranking, and machine-learning-based recommendations all fall within this definition, as the market impact on sellers remains the same regardless of the underlying computational method. Second, it does not rely on the use of personal data: a system that generates identical rankings for all users is still covered by the definition, since the competition concerns underlying Section 4.2 stem from the ranking itself rather than from user profiling. Finally, it is independent of intent: even display outcomes resulting as an unintended consequence of optimization fall within this definition, as the reduction in visibility for sellers is identical in both scenarios.

In this article, we categorize five distinct types, as they involve different legal relationships and management issues. (i) Ranking systems order a candidate set against criteria that are, at least in principle, uniform across users. (ii) Recommender systems select and present a subset on the basis of inferred user preference; where that inference draws on personal data, data-protection law is additionally engaged. (iii) Paid placement assigns prominence in exchange for consideration, and raises questions of advertising identification besides ranking fairness. (iv) Self-preferencing assigns prominence by reference to the platform's own commercial interest in the ranked object. (v) Visibility restriction reduces or removes the prominence of a particular seller or listing. Categories (i) and (ii) principally concern consumers; (iii) concerns consumers and advertisers; (iv) and (v) principally concern business users and are the domain of competition law and of the platform-to-business relationship. Table 3 in Section 4.3 maps each category to the affected actor, the applicable Vietnamese provision, and the remedy proposed.

2.2 Algorithmic display as an allocation of market access

A first body of work treats ranking not as a service-quality feature but as the allocation of a scarce resource, namely consumer attention. Simone, Laudando and Scardini (2025) describe how platform orchestrators exercise power over complementors through control of the standards and information flows of the ecosystem;¹⁸ Wei and Geiger (2025) analyse the same relation as the agencing of market actors by algorithmic means.¹⁹ Consequently, a seller's competitive standing is not merely reflected in rankings but is also partially shaped by them. Gawer and Bonina (2024) highlight a crucial aspect of this dynamic: in environments where technical and legal oversight capabilities are weak, sellers tend to rely on a limited number of platforms and are less likely to recognize or speak out against detrimental practices; this serves as the basis for Section 4.4's assessment of effective measures that Vietnamese authorities can implement.²⁰

The difference in these perspectives relates to the approach taken to address the issue. One view holds that resource allocation based on rankings is a structural characteristic, necessitating the application of ex ante behavioral restrictions on large-scale enterprises; the opposing view regards this as a behavioral issue, requiring a case-by-case approach based on existing principles concerning the abuse of a dominant market position. The argument for the latter view is that ex ante rules could unduly hinder legitimate optimization activities. Choosing between these two viewpoints is not merely theoretical for Vietnam, because the first requires a designation mechanism which Vietnamese law currently lacks, while the second

¹⁸ SIMONE, C., LAUDANDO, A., and SCARDINI, S. "Digital platform ecosystems: A systemic view of power wielded by the platform orchestrators over complementors". 2025. Ibid.

¹⁹ WEI, R., and GEIGER, S. "Algorithmic agencing in platform markets". 2025. Ibid.

²⁰ GAWER, A., and BONINA, C. "Digital platforms and development: Risks to competition and their regulatory implications in developing countries". *Information and Organization*, v. 34, n. 3, 2024. <https://doi.org/10.1016/j.infoandorg.2024.100525>

requires the capacity to collect and evaluate evidence as mentioned in section 4.2, which current authorities are not yet able to provide.

2.3 Transparency: From disclosure to verifiability

A second body of work concerns what transparency is for Felzmann, Fosch-Villaronga, Lutz and Tamo-Larrieux (2020) argue that transparency is treated as a design value embedded from the outset, not just a disclosure produced once a dispute has arisen.²¹ Nieuwenhuizen (2024) supplies the counterweight, showing that algorithm registers can degenerate into box-ticking where the disclosed information is not usable by anyone with the standing and incentive to act on it.²² Brown, Davidovic and Hasan (2021) and Laux, Wachter and Mittelstadt (2021) develop the audit route to the same objective, the latter warning that the independent-audit mechanisms of the DSA and DMA are themselves exposed to capture by the audited firms.^{23,24}

At this stage, it is valuable to further distinguish the term "black box," which was previously used in the draft as an undifferentiated label. Four distinct conditions are involved, and they call for different remedies. Technical opacity is the difficulty of interpreting a trained model's internal representations; it is not cured by disclosure. Organisational secrecy is the deliberate withholding of information about system design, which is cured by disclosure to a trusted recipient. Legal opacity is the protection of that information by trade-secret or confidentiality rules that is addressed by controlled access, not just publication. Epistemic complexity is the difficulty a non-expert has in drawing inferences from information that has in fact been disclosed, which is addressed by intermediation, whether by regulators, auditors or researchers. Van Drunen and Noroozian (2024) show that researcher access regimes must be designed against this last condition specifically.^{25,26} Where this analysis uses 'black box' hereafter, it names which of the four conditions is meant.

The distinction between formal transparency and substantive transparency applied in this study is based on relevant literature. Formal transparency entails the public disclosure of general criteria, whereas substantive transparency involves providing sufficient information to enable affected parties or regulatory bodies to verify whether the established criteria have been correctly applied. This distinction parallels the way Felzmann et al. differentiate between transparency as a result of compliance and transparency as a designed feature, as well as how Nieuwenhuizen distinguishes between a registration system that merely exists and one that is

²¹ FELZMANN, H., FOSCH-VILLARONGA, E., LUTZ, C., and TAMO-LARRIEUX, A. "Towards transparency by design for artificial intelligence". *Science and Engineering Ethics*, v. 26, n. 6, 2020, pp. 3333-3361. <https://doi.org/10.1007/s11948-020-00276-4>

²² NIEUWENHUIZEN, E. "Algorithm registers: A box-ticking exercise or meaningful tool for transparency?". *Information Polity*, v. 29, n. 4, 2024, pp. 415-433. <https://doi.org/10.1177/15701255241297107>

²³ BROWN, S., DAVIDOVIC, J., and HASAN, A. "The algorithm audit: Scoring the algorithms that score us". *Big Data & Society*, v. 8, n. 1, 2021. <https://doi.org/10.1177/2053951720983865>

²⁴ LAUX, J., WACHTER, S., and MITTELSTADT, B. "Taming the few: Platform regulation, independent audits, and the risks of capture created by the DMA and DSA". *Computer Law & Security Review*, v. 43, 2021, pp. 105613. <https://doi.org/10.1016/j.clsr.2021.105613>

²⁵ VAN DRUNEN, M.Z., and NOROOZIAN, A. "How to design data access for researchers: A legal and software development perspective". *Computer Law & Security Review*, v. 52, 2024, 105946. <https://doi.org/10.1016/j.clsr.2024.105946>

²⁶ GAUSEN, A., GUO, C., and LUK, W. "An approach to sociotechnical transparency of social media algorithms using agent-based modelling". *AI and Ethics*, v. 5, n. 2, 2025, pp. 1827-1845. <https://doi.org/10.1007/s43681-024-00527-1>

genuinely utilized.^{27,28} It should be acknowledged that the proposition that scholarship rejects source-code disclosure, asserted without qualification in the earlier draft, overstates the position: the majority of research papers only oppose source code publication as a way to increase overall transparency, due to concerns about the disclosure of trade secrets and the belief that it does not benefit non-experts. However, some studies still support the idea of reviewing source code under the supervision of a regulatory authority or a court-appointed expert in specific law enforcement cases. In this article, section 4.3, also agrees with this view.²⁹

2.4 From algorithmic transparency to algorithmic choice

A third strand asks what a user can do with disclosed information. Busch (2023) frames the move from algorithmic transparency to algorithmic choice: disclosure matters because and to the extent that it enables the user to select a different display strategy.³⁰ Hakkarainen and Savolainen (2025) refine the claim through the DSA's 'double choice architecture', distinguishing the individual user's ability to adjust personalisation from the collective effects that persist regardless of individual adjustment.³¹ Mitova and colleagues (2024), in a five-nation survey, supply the empirical qualification that matters for policy design: stated demand for transparency and control is uneven across populations and the take-up of control features is low.³²

An unresolved issue is whether the right to opt out actually yields the expected results. If the personalized mode remains the default, if the control is buried, and if take-up is in the low single digits, then the right to opt out merely shifts the burden of compliance costs to the platform and the burden of information seeking to the user, without altering overall effectiveness. There are two ways to address this issue. The first accepts the objection and moves the intervention to the default itself, requiring that the non-personalised mode be offered on equal prominence. The second treats the opt-out as valuable independently of take-up, on the ground that it makes the personalisation visible as a choice and thereby supplies the factual predicate for a later deception claim. The article adopts both Section 4.3 recommends an opt-out right coupled with an equal-prominence requirement, precisely because the literature suggests the right alone would be inert.

²⁷ FELZMANN, H., FOSCH-VILLARONGA, E., LUTZ, C., and TAMO-LARRIEUX, A. "Towards transparency by design for artificial intelligence". 2020. Ibid.

²⁸ NIEUWENHUIZEN, E. "Algorithm registers: A box-ticking exercise or meaningful tool for transparency?". 2024. Ibid.

²⁹ GRISSE, K. "Recommender systems, manipulation and private autonomy: How European civil law regulates and should regulate recommender systems for the benefit of private autonomy". in GENOVESI, S., KAESLING, K., ROBBINS, S. (Eds.), *Recommender Systems: Legal and Ethical Issues, The International Library of Ethics, Law and Technology, Springer Cham*, v. 40, 2023, pp. 101-128. https://doi.org/10.1007/978-3-031-34804-4_6

³⁰ BUSCH, C. "From Algorithmic Transparency to Algorithmic Choice: European Perspectives on Recommender Systems and Platform Regulation". in GENOVESI, S., KAESLING, K., ROBBINS, S. (Eds.), *Recommender Systems: Legal and Ethical Issues, The International Library of Ethics, Law and Technology, Springer Cham*, v. 40, 2023, pp. 31-54. https://doi.org/10.1007/978-3-031-34804-4_3

³¹ HAKKARAINEN, J., and SAVOLAINEN, L. "Individual choice, collective effects: Recommender systems, law by design, and the DSA's double choice architecture". *Information, Communication & Society*, v. 29, n. 11, 2025, pp. 3179-3196. <https://doi.org/10.1080/1369118X.2025.2595663>

³² MITOVA, E., BLASSNIG, S., STRIKOVIC, E., URMAN, A., DE VREESE, C., and ESSER, F. "Exploring users' desire for transparency and control in news recommender systems: A five-nation study". *Journalism*, v. 25, n. 10, 2024, pp. 2001-2021. <https://doi.org/10.1177/14648849231222099>

2.5 Self-preferencing and the limits of competition law

The fourth aspect concerns hybrid platforms. Kittaka, Sato, and Zenno (2023) reviewed the economics literature and demonstrated that a platform's practice of prioritizing the display of its own products does not necessarily harm consumers; if the platform's products are indeed of higher quality or lower price, such prioritization can actually benefit users. Furthermore, the true negative impact stems from the elimination of efficient competitors rather than from the act of prioritizing the display itself.³³ This is the most significant limitation highlighted in the article, as it demonstrates that self-preferencing cannot be automatically prohibited without a clear regulatory mechanism; doing so would inadvertently ban practices that actually benefit consumers. Jurgensmeier and Skiera (2025) addressed this measurement challenge by developing visibility-based metrics. These metrics compare the placement of the platform's own products or services against similar offerings from third parties, while simultaneously controlling for content relevance.³⁴

2.6 Accountability and the allocation of responsibility in platform ecosystems

Another aspect concerns requirements for the disclosure of accountability, particularly when the root cause of an issue cannot be clearly identified. Binns (2018) laid the groundwork for algorithmic accountability based on the obligation to disclose reasons;³⁵ Horneber and Laumer (2023) analyzed this concept through three key components: documentation, explanation, and auditing.^{36,37} Oduro, Moss and Metcalf (2022) identify the regulatory trend most directly relevant here, the emergence of obligations to assess that require operators to generate a documentary record as an impact assessment, a design rationale, a log and thereby to become audit-ready in advance of any dispute.³⁸ Offering a contrasting perspective rooted in public value, Selten and Meijer (2021) argue that algorithmic governance must balance efficiency, fairness, and transparency rather than focusing solely on optimizing a single factor; meanwhile, Papagiannidis, Mikalef, and Conboy (2025) have synthesized governance mechanisms that enable businesses to effectively fulfill these obligations internally.^{39,40}

Two recent contributions bear directly on Section 4.3. Zhang and He (2026) analyse the allocation of legal liability for AI agent conduct within platform ecosystems, arguing that responsibility will track control capacity and foreseeability

³³ KITAKA, Y., SATO, S., and ZENNO, Y. "Self-preferencing by platforms: A literature review". *Japan and the World Economy*, v. 66, 2023. <https://doi.org/10.1016/j.japwor.2023.101191>

³⁴ JURGENSMEIER, L., and SKIERA, B. "Measuring Self-Preferencing on Digital Platforms". 2025. Ibid.

³⁵ BINNS, R. "Algorithmic accountability and public reason". *Philosophy & Technology*, v. 31, n. 4, 2018, pp. 543-556. <https://doi.org/10.1007/s13347-017-0263-5>

³⁶ HORNEBER, D., and LAUMER, S. "Algorithmic Accountability". *Business & Information Systems Engineering*, v. 65, n. 6, 2023, pp. 723-730. <https://doi.org/10.1007/s12599-023-00817-8>

³⁷ BAYKURT, B. "Algorithmic accountability in U.S. cities: Transparency, impact, and political economy". *Big Data & Society*, v. 9, n. 2, 2022. <https://doi.org/10.1177/20539517221115426>

³⁸ ODURO, S., MOSS, E., and METCALF, J. "Obligations to assess: Recent trends in AI accountability regulations". *Patterns*, v. 3, n. 11, 2022, pp. 100608. <https://doi.org/10.1016/j.patter.2022.100608>

³⁹ SELTEN, F., and MEIJER, A. "Managing algorithms for public value". *International Journal of Public Administration in the Digital Age*, v. 8, n. 1, 2021, pp. 1-16. <https://doi.org/10.4018/IJPADA.20210101.0a9>

⁴⁰ PAPAGIANNIDIS, E., MIKALEF, P., and CONBOY, K. "Responsible artificial intelligence governance: A review and research framework". *The Journal of Strategic Information Systems*, v. 34, n. 2, 2025, pp. 101885. <https://doi.org/10.1016/j.jsis.2024.101885>

across developers, deployers and platform operators, and that procedural accountability mechanisms are the practical route to giving that allocation effect where the causal chain cannot be reconstructed.⁴¹ He and Zhang (2025) examine rights conflicts in algorithmic governance through due process, equal protection, privacy and data rights, and compare governance approaches across the European Union, the United States, Northeast Asia and international organisations.⁴² The first is used below to justify why a Vietnamese platform operator that both designs and deploys a display system carries the higher share of the documentary burden. The second informs the framing of substantive transparency and user autonomy as rights in conflict with the operator's confidentiality interest, not as free-standing products.

2.7 The research gap

While the fundamental principles regarding these five aspects have been clarified, the specific methods of implementation remain undefined. There is a general consensus that rankings influence market access, information disclosure without verification mechanisms yields no practical results, user control is meaningless without default settings, self-preferencing behavior is harmful only under specific, demonstrable conditions, and procedural obligations offer a practical means of ensuring accountability in cases where a causal link cannot be established. However, current research literature still lacks clear guidance on how a regulatory body with limited technical capacity, operating in a legal environment lacking designation mechanisms and algorithm registration systems, should fulfill these obligations. Specifically, there is no guidance on which obligations apply to all platforms, which only arise when there is evidence of risk, what types of evidence are recognized, and the legal consequences of failing to provide such evidence. Existing research in Vietnam on this topic remains fragmented and has not deeply analyzed the specific provisions of the 2025 Law on E-commerce. This study aims to address that gap.

Figure 1 synthesises the preceding literature into the analytical framework used in this study. The first pillar, identification and substantive transparency, defines the regulatory object and the minimum information necessary for disclosure to become meaningful rather than merely formal; it builds on the distinction between transparency as disclosure and transparency as a verifiable design feature discussed by Felzmann et al. (2020) and Nieuwenhuizen (2024). The second pillar, algorithmic choice and user autonomy, draws on Busch (2023) move from algorithmic transparency to algorithmic choice, together with the literature on recommender-system choice and the evidentiary limits of self-preferencing rules. The third pillar, risk-triggered conditional accountability, translates the accountability literature on documentation, explanation and audit-readiness, particularly Horneber and Laumer (2023) and Oduro, Moss and Metcalf (2022), into evidentiary obligations that become more demanding as regulatory risk increases. The three pillars therefore perform complementary functions: the first identifies what is regulated, the second specifies the substantive standards governing platform intervention, and the third supplies the evidentiary machinery needed to make the first two verifiable. Figure 1 links each pillar to the specific gaps identified in Vietnamese law and to the proposals examined in Section 4.

⁴¹ ZHANG, Z., and HE, J. "Who bears the responsibility? Legal liability allocation for AI agent conduct in platform ecosystem". *Cogent Social Sciences*, v. 12, n. 1, 2026, pp. 2691325. <https://doi.org/10.1080/23311886.2026.2691325>

⁴² HE, J., and ZHANG, Z. "Algorithm Power and Legal Boundaries: Rights Conflicts and Governance Responses in the Era of Artificial Intelligence". *Laws*, v. 14, n. 4, 2025, pp. 54. <https://doi.org/10.3390/laws14040054>

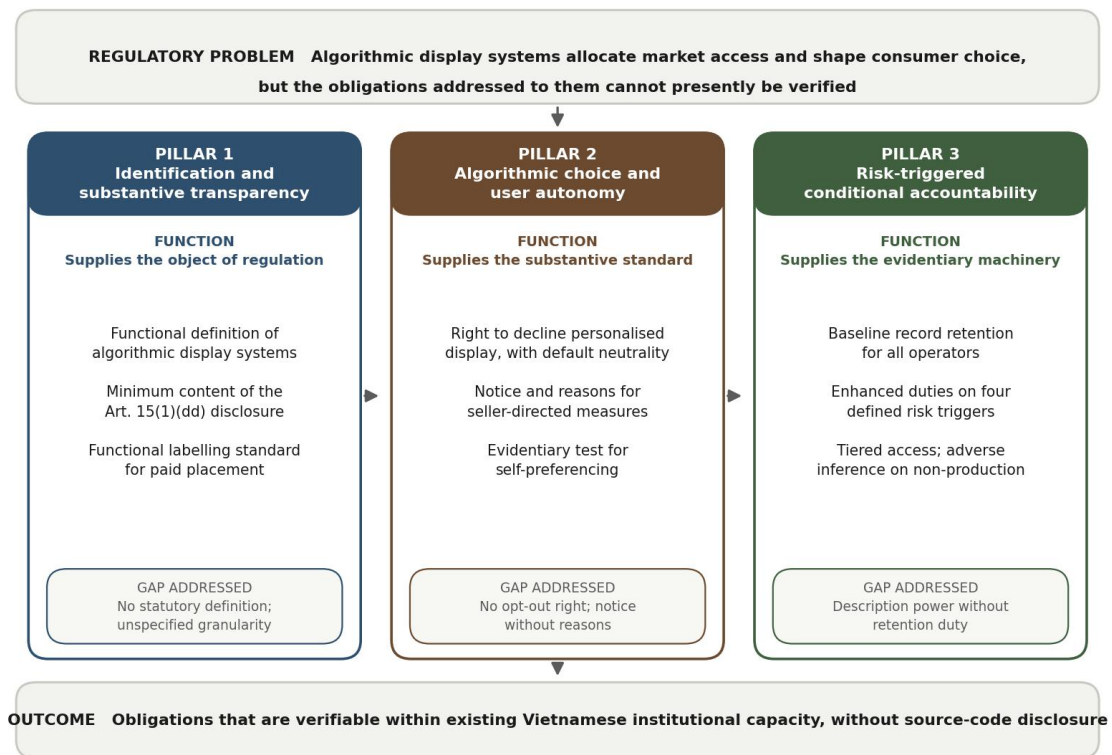


Figure 1. Conceptual framework: the three pillars of responsible governance of algorithmic display systems and their functional relationship.

Source: Authors' synthesis based on Felzmann et al. (2020), Nieuwenhuizen (2024), Busch (2023), Horneber and Laumer (2023), Oduro, Moss and Metcalf (2022), and the comparative legal instruments analysed in Sections 3 and 4. The specific risk triggers, tiered access mechanism and evidentiary consequences shown in the figure are the authors' proposals developed in Section 4.

3. Research design and methodology

This section states the research design (3.1), the two legal methods employed and the basis on which the comparator jurisdictions were selected (3.2), the ten variables against which the comparison is conducted and the criteria by which transferability is assessed (3.3), and the sources, selection criteria and limitations of the study (3.4).

3.1 Research design and dominant approach

This study is qualitative in nature and employs a legal analysis with a functional perspective. A functional approach means that display systems are evaluated based on their impact on the distribution of visibility among sellers and on consumer decision-making, rather than on their technical structures. This orientation facilitates comparisons across legal systems with different foundations. Although the DSA, the FTC Act, and Chinese regulations differ in terms of legal theory, the practical issues they address share significant similarities.

The study is conducted in three stages. The first stage involves assessing the current state of Vietnamese law through a thorough analysis of existing regulations, thereby identifying gaps in practical applicability. The second stage compares three foreign models based on the variables outlined in Section 3.3. Phase three involves evaluating design elements from abroad that could be applied in Vietnam, based on

the criteria outlined in Section 3.3, and synthesizing these elements into a proposal framework presented in Section 4.

3.2 Specialised research methodology and case selection

Two legal methods are used. The doctrinal legal analysis method is applied within the framework of Vietnamese law, examining relevant provisions alongside their legal context and drafting materials, where available, to clarify the scope of each obligation and the conditions required for its fulfillment. This method is applied to individual provisions rather than the statute as a whole, as the enforceability issues raised in the article arise from the interplay between specific provisions such as the discrepancy between the obligation to disclose information and the lack of a definition, or between the right to access information and the absence of an obligation to retain it. Such issues would remain undetected if the analysis were conducted only at a general level.

The comparative methodology requires a clear explanation of how the cases to be studied were selected, something that the previous draft lacked. The European Union, the United States and China were selected on three grounds. The first one is that they exhaust the available regulatory logics for this subject matter: *ex ante* rule-making addressed to designated or size-defined operators (EU), *ex post* enforcement under general prohibitions (US), and *ex ante* administrative licensing and registration (China). Currently, no fourth regulatory logic is widely applied elsewhere. A further ground is that each has legislated specifically on ranking or recommender systems, namely the DSA, the P2B Regulation and the DMA; the FTC's 2015 Enforcement Policy Statement and the California ADMT regulations, the 2022 Provisions on the Administration of Algorithmic Recommendation Services and the PIPL. Consequently, this comparison does not contrast legal systems in the abstract but focuses on regulations governing the same specific subject matter. Finally, each jurisdiction serves as a practical reference point for Vietnam's ongoing legal reforms; for instance, the provisions regarding the right to request algorithmic descriptions in the Law on E-commerce mirror the transparency frameworks of the DSA and DMA, while the administrative oversight mechanism bears similarities to the Chinese model. Thus, these jurisdictions are viewed as exemplars of distinct regulatory approaches rather than a sample set intended for statistical inference.

Legal instruments were included where they impose an obligation whose object is the ordering, prominence or availability of the presentation of goods, services or sellers, or where they confer a right on a consumer or business user in respect of such ordering. Instruments addressing content moderation of unlawful material, platform liability for third-party content, or data protection generally were excluded except where a provision bears directly on display, which is why Article 24 of the PIPL is within scope while the remainder of that statute is not. Primary sources were consulted in their official versions where available: EUR-Lex for European Union instruments; the United States Code and the Federal Trade Commission's own legal library for federal materials; the California Office of Administrative Law and the California Privacy Protection Agency for the ADMT regulations; the National Database of Legal Documents of the Government of Vietnam and the National Assembly's published texts for Vietnamese legislation. Chinese instruments were consulted in English translation, and Section 3.4 records the limitation this entails. Secondary literature was identified through Scopus, Web of Science, HeinOnline and SSRN using the search terms "recommender system", "ranking transparency", "self-preferencing", "algorithmic accountability" and "platform regulation", restricted to peer-reviewed publications in English from 2018 onwards, with earlier work included only where it is foundational to a concept still in use.

3.3 Comparative analytical framework and evaluation criteria

Each jurisdiction is examined against the same ten variables, set out in Table 1: (1) the legal definition and scope of ranking or recommender systems; (2) transparency obligations owed to consumers; (3) user control and opt-out rights; (4) duties owed to business users; (5) competition-law safeguards against self-preferencing; (6) auditability and access to evidence; (7) the enforcement authority; (8) sanctions and remedies; (9) the treatment of trade secrets; and (10) the institutional preconditions for administering the model. Holding the variables constant is what distinguishes comparison from a sequence of jurisdictional summaries.

For China, the comparative matrix also takes into account the platform-economy antitrust guidelines, which adapt traditional abuse-of-dominance analysis to the specific characteristics of platform markets, as discussed by Huang et al. (2021).

Transferability is not inferred from the presence of a rule abroad. A foreign design element is treated as transferable only if it satisfies four criteria, applied in order. The first is institutional: can the element be administered by an authority that exists in Vietnam today, with the powers it already has? The second is evidentiary: does the element generate or rely on evidence that a Vietnamese authority could obtain and evaluate? The third is proportionality: is the compliance burden it imposes commensurate with the risk it addresses, having regard to the fact that most sellers on Vietnamese platforms are small enterprises and household businesses? The fourth is coherence: can the element be accommodated within the existing allocation of competence among the Ministry of Industry and Trade, the National Competition Committee and the data-protection authority, without requiring a new regulator? An element failing the first criterion is rejected regardless of its merits, which is why the article does not recommend a gatekeeper-designation regime for Vietnam.

Table 1. Comparative matrix: governance of algorithmic display systems across four jurisdictions.⁴³

Variable	European Union	United States	China	Vietnam
(1) Legal definition and scope	Recommender system defined in DSA Art. 3(s); 'ranking' defined separately in P2B Reg. Art. 2(8)	No statutory definition; liability attaches to deceptive effect, not to system class	Algorithmic recommendation services defined by enumerated techniques in the 2022 Provisions	No definition in any instrument; Art. 3 of the 2025 Law is silent (GAP)
(2) Transparency owed to consumers	DSA Art. 27 (main parameters and modification options in terms and conditions); Art. 26 (advertising identification in real time)	FTC Act §5 with the 2015 Enforcement Policy Statement; a deception standard, not a disclosure duty	Provisions Art. 16 (basic principles, purpose, main operating mechanisms)	2025 Law Arts. 15(1)(đ) and 11(3); 2023 Law Art. 10(3)(b). Duty exists; granularity unspecified

⁴³ On the Chinese platform-economy guidelines see HUANG, W., ZHOU, W., RUAN, X., and ZHANG, X. "Antitrust guidelines for the platform economy in the era of enhanced antitrust scrutiny". *Competition Policy International*, 2021. Available at: <https://www.competitionpolicyinternational.com/wp-content/uploads/2021/03/10-Antitrust-Guidelines-for-the-Platform-Economy-in-the-Era-of-Enhanced-Antitrust-Scrutiny-By-Wei-Huang-Wendy-Zhou-Xiumin-Ruan-Xi-Zhang.pdf> (accessed 18 September 2026).

Variable	European Union	United States	China	Vietnam
(3) User control and opt-out	DSA Art. 27(3) (modification); Art. 38 (non-profiling option, VLOPs only)	California ADMT regulations 2025 (CCPA scope only); no federal right	Provisions Art. 17 (right to switch recommendation off); PIPL Art. 24	No right to decline personalised display (GAP)
(4) Duties owed to business users	P2B Reg. Art. 5 (ranking parameters); Art. 4 (statement of reasons on restriction)	No general duty; contract and unfair-practices law only	General fairness duties; no dedicated statement-of-reasons duty	2025 Law Art. 17(2)(g): 5 days' notice, but no statement of reasons (GAP)
(5) Competition safeguards on self-preferencing	DMA Art. 6(5): per se prohibition, designated gatekeepers only (Arts. 3-4); Art. 102 TFEU otherwise	Sherman Act §2 monopolisation; effects-based, litigated case by case	Anti-Monopoly Law and platform-economy guidelines; administrative enforcement	Competition Law Arts. 24, 26, 27(1)(e) and 27(1)(g); requires proof of dominance and effect
(6) Auditability and access to evidence	DSA Art. 37 (independent audit, VLOPs); Art. 40 (vetted researcher access); Art. 42 (records)	Discovery and civil investigative demands; no standing retention duty	Provisions Art. 24 (ex ante algorithm filing); record held by regulator	2025 Law Art. 17(3)(d) description power, but no retention duty (GAP)
(7) Enforcement authority	European Commission (VLOPs, gatekeepers); national Digital Services Coordinators	FTC; DOJ Antitrust Division; state attorneys general; CPPA in California	Cyberspace Administration of China; SAMR for competition	Ministry of Industry and Trade; National Competition Committee
(8) Sanctions and remedies	DSA up to 6% of global turnover; DMA up to 10%; private damages actions	Injunctions, consent orders, civil penalties, treble damages in private antitrust actions	Administrative fines, rectification orders, service suspension	Administrative penalties; civil claim requires fault, causation and damage
(9) Treatment of trade secrets	DSA Art. 40(5) safeguards; audit confidentiality; no source-code publication	Protective orders in litigation; trade-secret law strongly protective	Filing to regulator instead of public disclosure	No tiered-access framework; Art. 17(3)(d) silent on confidentiality (GAP)
(10) Institutional preconditions	Designation machinery, accredited auditors, Commission technical capacity	Litigation infrastructure; expert discovery; well-resourced agencies	Registry function; standing administrative technical capacity	Existing authorities only; no designation mechanism, registry or audit profession

3.4 Sources, selection criteria and research limitations

This study focuses exclusively on e-commerce platforms and the systems they manage, including ranking, recommendation, paid display, and visibility-limiting systems. General-purpose artificial intelligence models are excluded from the scope of the study unless they are integrated as part of a display system. Primary data consists of legal texts, regulatory guidelines, and enforcement decisions, while secondary data comprises previously peer-reviewed academic research on algorithmic governance and platform economics.

Four limitations ought to be acknowledged, and they bear on the weight the findings can carry. First, the study is doctrinal and comparative; it involves no technical experimentation with platform systems and no empirical measurement of ranking outcomes. The visibility metrics discussed in Section 4.2 are shown as suggested evidence standard instead of as conclusions, and the statements in the article regarding the actual actions of a Vietnamese platform are therefore quite reserved. Second, the jurisdictional scope is limited to three comparators. A fourth including India, Brazil or Indonesia, each a large developing e-commerce market with capacity constraints closer to Vietnam's than any of the three selected would have improved the transferability analysis, and its omission is a real cost. Third, Chinese materials were consulted in English translation. Translations of the 2022 Provisions and of the PIPL have some differences, and when the discussion depends on the wording, the article highlights that aspect instead of depending on just one version. Fourth, the Law on E-Commerce No. 122/2025/QH15 enters into force on 1 July 2026 and its implementing decrees were not available at the time of writing; the analysis therefore addresses the statutory text and cannot assess implementing detail, and several of the gaps identified in Section 4 could in principle be closed at decree level. That possibility is itself a finding, and Section 5 states which gaps can be closed by decree and which require primary legislation.

4. Results and discussion

The analysis addresses three key issues in turn: standards for legal identification and transparency (4.1), market fairness and market manipulation (4.2), and the legal liabilities and rights of stakeholders (4.3). Each follows the same sequence: the position under Vietnamese law at provision level, the comparative position against the variables in Table 1, a critical assessment of what each foreign model achieves and fails to achieve, and a recommendation tested against the four transferability criteria in Section 3.3. Section 4.4 then assesses whether the resulting package is administrable by Vietnamese authorities as presently constituted. Throughout, findings supported by legal or scholarly authority are distinguished from the article's own proposals, which are introduced by an explicit statement that they are proposals.

4.1 Legal identification and transparency standards for display systems

4.1.1 The undefined object of the Vietnamese disclosure duty

Article 15(1)(đ) of the Law on E-Commerce No. 122/2025/QH15 requires an operator to publicise the main selection criteria used where the platform employs algorithms or other measures to restrict or prioritise the display of goods and services.⁴⁴ Article 11(3) requires operators of platforms with ordering functionality to

⁴⁴ NATIONAL ASSEMBLY OF THE SOCIALIST REPUBLIC OF VIETNAM. Law on E-Commerce No. 122/2025/QH15, Art. 15(1)(đ); see also Art. 11(3) on the disclosure of transaction conditions, including display prioritisation policy. Available at: <https://datafiles.chinhphu.vn/cpp/files/vbpq/2026/01/luat122.2025.qh15.pdf> (accessed 18 September 2026).

disclose transaction conditions, expressly including display prioritisation policy, in Vietnamese and in a manner that is visible and not misleading. Article 10(3)(b) of the Law on Protection of Consumers' Rights No. 19/2023/QH15 approaches the same conduct from the opposite direction, prohibiting the restriction of consumer choice through the prioritised arrangement of products between sellers without publicising the selection criteria.⁴⁵ Taken together, these provisions establish a disclosure duty of real substance, and Vietnam will be credited with legislating on ranking transparency earlier in its digital-economy development than most comparable jurisdictions.

The gap lies elsewhere. Neither the 2025 Law nor the 2023 Law defines a ranking system, a recommender system or any equivalent term, and Article 3 of the 2025 Law, which contains the interpretation provisions, does not address display systems at all.⁴⁶ Three consequences follow. First, the scope of the Article 15(1)(d) duty is indeterminate: an operator can comply by publishing four generic criteria, since nothing specifies the required granularity, and a regulator cannot say that the disclosure is insufficient without a benchmark against which insufficiency could be measured. Second, the duty attaches to 'algorithms or measures to restrict or prioritise', which describes a function but leaves open whether a rule-based sort, a personalised feed and a paid-placement auction are one object or three, a question that matters because the appropriate disclosure differs for each. Third, and most consequentially, an undefined object cannot support graduated obligations: it is not possible to impose documentation, retention or assessment duties on a class of systems that has not been delineated. The definitional gap is therefore not a drafting infelicity but the reason the enforcement architecture cannot presently be built.

The comparative position on variable (1) of Table 1 is instructive precisely because the three models diverge. Article 3(s) of the DSA defines a recommender system as a fully or partially automated system used to suggest or prioritise information in the online interface, including as a result of a search, and Article 27 then attaches the disclosure duty to that defined object.⁴⁷ The definition is technology-neutral and effects-based, and it is the model the article recommends. Article 2(8) of the P2B Regulation defines 'ranking' separately and for a different purpose, namely the business-user relationship.⁴⁸ The Chinese Provisions define algorithmic recommendation services by enumerating five techniques, namely generative-synthetic, personalized push, ranking and selection, retrieval and filtering, and scheduling decision-making which yields administrative precision at the cost of technological durability, since a technique not on the list is not covered.⁴⁹ United

⁴⁵ NATIONAL ASSEMBLY OF THE SOCIALIST REPUBLIC OF VIETNAM. Law on Protection of Consumers' Rights No. 19/2023/QH15, Art. 10(3)(b). Available at: https://datafiles.chinhphu.vn/cpp/files/vbpq/2023/7/luat19_2023.pdf (accessed 18 September 2026).

⁴⁶ NATIONAL ASSEMBLY OF THE SOCIALIST REPUBLIC OF VIETNAM. Law on E-Commerce No. 122/2025/QH15, Art. 3 (interpretation). Available at: <https://datafiles.chinhphu.vn/cpp/files/vbpq/2026/01/luat122.2025.qh15.pdf> (accessed 18 September 2026).

⁴⁷ EUROPEAN PARLIAMENT AND COUNCIL OF THE EUROPEAN UNION. Regulation (EU) 2022/2065 (Digital Services Act), OJ L 277, 27.10.2022, Art. 3(s). Available at: <https://eur-lex.europa.eu/eli/reg/2022/2065/oj> (accessed 18 September 2026).

⁴⁸ EUROPEAN PARLIAMENT AND COUNCIL OF THE EUROPEAN UNION. Regulation (EU) 2019/1150 on promoting fairness and transparency for business users of online intermediation services, OJ L 186, 11.7.2019, Art. 5; the definition of "ranking" is in Art. 2(8). Ibid.

⁴⁹ CYBERSPACE ADMINISTRATION OF CHINA. Provisions on the Administration of Algorithmic Recommendations in Internet Information Services, 2022, Art. 2, which defines algorithmic recommendation services by reference to five enumerated techniques. Available at: <https://www.chinalawtranslate.com/en/algorithms/> (accessed 18 September 2026).

States federal law contains no definition at all: liability attaches to the deceptive effect of a display, not to the class of system producing it.⁵⁰

Assessed against the four transferability criteria, the DSA's definitional technique is transferable and the Chinese technique is not. The DSA definition can be administered by an existing authority applying an effects test of a kind Vietnamese regulators already apply under Article 10(3)(b) of the consumer law; it generates no evidentiary demand of its own; it imposes no compliance burden beyond identifying which systems are in scope; and it can be inserted into Article 3 of the 2025 Law without disturbing the allocation of competence. The Chinese enumeration fails the coherence criterion: an enumerated-technique definition presupposes an administrative body capable of maintaining and updating the enumeration as techniques evolve, and Vietnam has no algorithm registry function to which that task could be assigned. We accordingly propose that Article 3 of the Law on E-Commerce be amended, or the implementing decree drafted, to define an algorithmic display system in the functional terms set out in Section 2.1, and to identify the five sub-categories to which differentiated obligations may then attach.

4.1.2 Formal and substantive transparency, and the limits of disclosure

Formal transparency is satisfied by the publication of general criteria such as relevance, popularity, and rating. Substantive transparency requires enough information for an affected party to determine whether the published criteria were in fact applied. Three layers separate the two. The first is the relative weight of the main parameters, since a criterion that formally appears in the list may contribute negligibly to the outcome. The second is the treatment of commercial factors: whether, and how far, paid placement, fulfilment through the platform's own logistics service, or first-party status affects position. The third is the set of controls actually available to the user. Disclosure that omits all three satisfies Article 15(1)(dd) on its face while leaving the recipient no better able to evaluate the display than before.

It is necessary to confront the objection that transparency obligations do not in fact reduce information asymmetry. The objection has force. Disclosure of main parameters in terms and conditions is read by almost no one; where it is read, the epistemic complexity described in Section 2.3 prevents a non-expert from drawing inferences from it; and a platform retains discretion over the level of abstraction at which it describes its own system. On this view the DSA's Article 27 achieves compliance, not just focus on accountability.⁵¹ The answer we gives is that consumer-facing disclosure is not expected to carry the accountability burden at all. Its function is narrower and still worth having: it fixes a statement by the operator about how its system works, against which the operator's conduct can later be tested by a party that does have the expertise and the incentive as a regulator, a competitor, or a seller with a complaint. Disclosure, on this account, is not a remedy but the predicate for one. That is why the article's transparency recommendation is paired with the retention obligation proposed in 4.3: a statement that cannot be checked against a record is not a predicate for anything.

On variable (2) of Table 1, the instruments diverge by addressee in a way that must be kept distinct. DSA Article 27 addresses providers of online platforms and requires the main parameters and the modification options to be set out in the terms and conditions in plain language.⁵² DSA Article 38 imposes an additional obligation,

⁵⁰ FEDERAL TRADE COMMISSION. Enforcement policy statement on deceptively formatted advertisements. 2015. Ibid.

⁵¹ NIEUWENHUIZEN, E. "Algorithm registers: A box-ticking exercise or meaningful tool for transparency?". 2024. Ibid.

⁵² EUROPEAN PARLIAMENT AND COUNCIL OF THE EUROPEAN UNION. Regulation (EU) 2022/2065 (Digital Services Act), OJ L 277, 27.10.2022, Art. 27 and Art. 38. The obligation

on very large online platforms and very large online search engines only, to provide at least one recommender option not based on profiling.⁵³ P2B Regulation Article 5 addresses providers of online intermediation services and requires disclosure to business users of the main ranking parameters and the reasons for their relative importance, together with a description of any direct or indirect remuneration affecting ranking.⁵⁴ These are three duties with three addressees and three beneficiaries. The FTC's 2015 Enforcement Policy Statement operates on none of these bases: it does not require ranking disclosure, but treats a display format as deceptive where it misleads a reasonable consumer as to the commercial nature or source of the content.⁵⁵ Article 16 of the Chinese Provisions requires providers to inform users of the basic principles, purpose and main operating mechanisms of the service, and Article 17 confers the right to switch the recommendation service off.⁵⁶

Table 2 consolidates these differences by separating, for each instrument, the regulated addressee, the threshold for application, the object of the duty, the enforcement route and the beneficiary. This separation is necessary because rules that all concern algorithmic display may nevertheless perform materially different regulatory functions and apply to different categories of platform operators.

Table 2. Distinguishing the regulatory instruments: addressee, threshold, object of duty and enforcement route.

Instrument / provision	Addressee	Threshold	Object of the duty	Enforcement route	Beneficiary
DSA Art. 27	Providers of online platforms	None (all online platforms; micro and small enterprises exempt under Art. 19)	Main parameters of recommender systems and options to modify, in terms and conditions	Digital Services Coordinator / Commission	Recipients of the service
DSA Art. 38	Very large online platforms and search engines	Designation on 45 million average monthly recipients (Art. 33)	At least one recommender option not based on profiling	European Commission	Recipients of the service
DSA Art. 26	Providers of online platforms	None	Advertising identifiable in a clear and unambiguous manner in real time	Digital Services Coordinator / Commission	Recipients of the service
P2B Reg. Arts. 4-5	Providers of online	None (size-independent)	Main ranking parameters	National enforcement;	Business users

applies only to very large online platforms and very large online search engines designated under Art. 33. Ibid.

⁵³ EUROPEAN PARLIAMENT AND COUNCIL OF THE EUROPEAN UNION. Regulation (EU) 2022/2065 (Digital Services Act), OJ L 277, 27.10.2022, Art. 38. The obligation applies only to very large online platforms and very large online search engines designated under Art. 33. Available at: <https://eur-lex.europa.eu/eli/reg/2022/2065/oj> (accessed 18 September 2026).

⁵⁴ EUROPEAN PARLIAMENT AND COUNCIL OF THE EUROPEAN UNION. Regulation (EU) 2019/1150 on promoting fairness and transparency for business users of online intermediation services, OJ L 186, 11.7.2019, Art. 5; the definition of "ranking" is in Art. 2(8). Ibid.

⁵⁵ FEDERAL TRADE COMMISSION. Enforcement policy statement on deceptively formatted advertisements. 2015. Ibid.

⁵⁶ CYBERSPACE ADMINISTRATION OF CHINA. Provisions on the Administration of Algorithmic Recommendations in Internet Information Services, 2022. Arts. 16 and 17. Ibid.

Instrument / provision	Addressee	Threshold	Object of the duty	Enforcement route	Beneficiary
	intermediation services		and relative importance (Art. 5); statement of reasons on restriction or suspension (Art. 4)	mediation; representative actions	
DMA Art. 6(5)	Designated gatekeepers	Designation under Arts. 3-4 (quantitative and qualitative criteria)	Prohibition of more favourable ranking of own services; transparent, fair, non-discriminatory conditions	European Commission exclusively	Third-party business users
GDPR Arts. 13-15, 22	Controllers	Processing of personal data; solely automated decisions with legal or similar significant effect	Meaningful information about the logic involved; right not to be subject to solely automated decisions	Data protection authorities; courts	Data subjects
FTC Act §5 and 2015 Policy Statement	Persons in or affecting commerce	None; conduct-based	No deceptively formatted advertising; deception assessed by net impression on a reasonable consumer	FTC administrative and judicial action	Consumers
Competition Law (VN) Arts. 24-27	Undertakings holding a dominant position	30% market share or substantial market power (Arts. 24, 26)	Prohibition of exclusionary conduct including prevention of entry or expansion	National Competition Committee	Competing undertakings
Law on E-Commerce (VN) Art. 15(1)(đ)	Platform operators	None	Publicise main selection criteria where algorithms restrict or prioritise display	Ministry of Industry and Trade	Consumers and sellers
Law on E-Commerce (VN) Art. 17(3)	Large intermediary platform operators	Large digital platform criteria, Decree 55/2024 Art. 2(2)	Automated detection, complaint mechanism, human oversight, algorithm description on request (point d)	Ministry of Industry and Trade	Consumers, sellers, the State

Source: Authors' compilation from Regulation (EU) 2022/2065 (DSA), Arts. 19, 26, 27, 33 and 38; Regulation (EU) 2019/1150 (P2B Regulation), Arts. 4-5; Regulation (EU) 2022/1925 (DMA), Arts. 3-4 and 6(5); Regulation (EU) 2016/679 (GDPR), Arts. 13-15 and 22; the Federal Trade Commission Act, 15 U.S.C. § 45, and the FTC Enforcement Policy Statement on Deceptively Formatted Advertisements (2015); and the Chinese Provisions on the Administration of Algorithmic Recommendations in Internet Information Services, Arts. 16-17.

As Table 2 shows, the comparative instruments do not constitute a single model of algorithmic regulation. The DSA combines generally applicable transparency rules with enhanced obligations for very large platforms; the P2B Regulation protects business users without requiring gatekeeper status; the DMA attaches a stricter substantive prohibition to prior designation; and United States law relies primarily on conduct-based ex post enforcement. Vietnamese law, by contrast, combines generally applicable disclosure duties with enhanced obligations for large intermediary platforms but lacks the intermediate evidentiary and procedural mechanisms that connect those duties to effective enforcement. This distinction informs the graduated approach developed in Sections 4.1-4.3.

4.1.3 The retention gap behind the algorithm-description power

Article 17(3)(d) of the 2025 Law empowers a competent authority to require an operator of a large platform to furnish transaction data and an algorithm description covering design, logic, functions and simulations, where conduct shows signs of a legal violation. This is a significant power and has no counterpart in the previous Vietnamese framework.⁵⁷ Its defect is that the law creates no corresponding duty to retain the material from which such a description would have to be constructed. An operator asked in 2027 to explain a ranking change that occurred in 2026 is under no obligation to have preserved the parameter configuration then in force, the version history of the ranking model, the A/B test records, or the logs showing how particular listings were treated. A description compiled after the fact from surviving materials is not verifiable, and an authority that cannot verify a description cannot act on it. The power is, in this sense, self-defeating as drafted.

Comparison on variable (6) shows three ways of closing this gap, of differing cost. The DSA combines Article 42 record-keeping and reporting with the Article 37 independent audit for very large platforms and the Article 40 data-access regime for vetted researchers, and is the most demanding.⁵⁸ The Chinese approach relies on ex ante filing under Article 24 of the Provisions, which produces a record held by the regulator.⁵⁹ The United States relies on the discovery and civil investigative demand powers of ordinary enforcement, which impose no standing duty but presuppose a litigation infrastructure. Applying the transferability criteria, the DSA's Article 37 audit fails the institutional and proportionality tests for Vietnam: there is no accredited audit profession for algorithmic systems in the country, and the capture risk that Laux, Wachter and Mittelstadt identify in the European context would be higher, not

⁵⁷ NATIONAL ASSEMBLY OF THE SOCIALIST REPUBLIC OF VIETNAM. Law on E-Commerce No. 122/2025/QH15, Art. 17(3)(d); the remaining obligations for large platforms are in Art. 17(3)(a)-(c). Available at: <https://datafiles.chinhphu.vn/cpp/files/vbpbq/2026/01/luat122.2025.qh15.pdf> (accessed 18 September 2026).

⁵⁸ EUROPEAN PARLIAMENT AND COUNCIL OF THE EUROPEAN UNION. Regulation (EU) 2022/2065 (Digital Services Act), OJ L 277, 27.10.2022, Arts. 37, 40 and 42. Available at: <https://eur-lex.europa.eu/eli/reg/2022/2065/oj> (accessed 18 September 2026).

⁵⁹ CYBERSPACE ADMINISTRATION OF CHINA. Provisions on the Administration of Algorithmic Recommendations in Internet Information Services, 2022, Art. 24. Available at: <https://www.chinalawtranslate.com/en/algorithms/> (accessed 18 September 2026).

lower, in a market with few qualified auditors.^{60,61} The Chinese filing model fails the coherence test for the reason given in 4.1.1. What is transferable is the least demanding element, and it is also the one that does the most work: a standing duty to retain, which requires no new institution and no new expertise, only a records rule and an inspection power that Article 17(3)(d) already supplies. This analysis accordingly proposes that the implementing decree impose a retention obligation on the classes of record specified in Table 4, without at this stage imposing a mandatory independent audit.

Two conclusions follow for Section 4.1. First, Vietnamese law defines the object of the display-transparency duty in functional terms, so that graduated obligations have something to attach to. Second, the disclosure duty in Article 15(1)(đ) is supported by a retention duty, so that what is disclosed can be checked. Neither recommendation requires new institutions, and both can be implemented at decree level. They are the minimum conditions for everything proposed in 4.2 and 4.3.

4.2 Market fairness and display manipulation

4.2.1 Paid placement and the identification of commercial content

Where sponsored listings are interleaved with organic results without adequate visual separation, a consumer cannot reliably tell which is which. Vietnamese law addresses this at the level of policy disclosure: Article 11(3) of the 2025 Law requires transaction conditions, including display prioritisation policy, to be disclosed visibly and without misleading effect, and Article 10(1)(a) of the 2023 consumer law prohibits deceiving or misleading consumers through inaccurate or incomplete information.⁶² What neither supplies is an identification standard at the level of the interface: a requirement that the label be legible at the size and contrast at which it is actually rendered, that it appear adjacent to the listing, and that it be present on each sponsored item. An operator can satisfy the disclosure duty in its published policy while designing an interface in which the sponsored character of a listing is, in practice, not apparent.⁶³

The comparative position is narrower than the earlier draft suggested. The FTC's Enforcement Policy Statement does not prescribe label design; it establishes that a format is unlawful if it misleads a reasonable consumer, leaving design to be tested case by case.⁶⁴ Article 26 of the DSA does prescribe: an advertisement must be identifiable as such in a clear, concise and unambiguous manner and in real time, and Article 26(2) requires a functionality allowing the recipient to declare whether content is commercial.⁶⁵ The difference is between a standard and a rule, and the choice between them is a choice about who bears the cost of uncertainty. A standard is cheaper to legislate and adapts to new interface designs, but it requires an

⁶⁰ LAUX, J., WACHTER, S., and MITTELSTADT, B. "Taming the few: Platform regulation, independent audits, and the risks of capture created by the DMA and DSA". 2021. Ibid.

⁶¹ BROWN, S., DAVIDOVIC, J., and HASAN, A. "The algorithm audit: Scoring the algorithms that score us". 2021. Ibid.

⁶² NATIONAL ASSEMBLY OF THE SOCIALIST REPUBLIC OF VIETNAM. Law on Protection of Consumers' Rights No. 19/2023/QH15, Art. 10(1)(a). Available at: https://datafiles.chinhphu.vn/cpp/files/vbpq/2023/7/luat19_2023.pdf (accessed 18 September 2026).

⁶³ NATIONAL ASSEMBLY OF THE SOCIALIST REPUBLIC OF VIETNAM. Law on E-Commerce No. 122/2025/QH15, Art. 15(1)(đ); see also Art. 11(3) on the disclosure of transaction conditions, including display prioritisation policy. Ibid.

⁶⁴ FEDERAL TRADE COMMISSION. Enforcement policy statement on deceptively formatted advertisements. 2015. Ibid.

⁶⁵ EUROPEAN PARLIAMENT AND COUNCIL OF THE EUROPEAN UNION. Regulation (EU) 2022/2065 (Digital Services Act), OJ L 277, 27.10.2022, Art. 26. Available at: <https://eur-lex.europa.eu/eli/reg/2022/2065/oj> (accessed 18 September 2026).

enforcement body capable of running fact-intensive deception cases. Therefore, a rule is administrable by inspection but becomes obsolete as interfaces change. Given that Vietnamese enforcement capacity in this area is administrative compared to litigation-based, the article proposes the rule-type approach: an implementing decree specifying minimum labelling requirements for paid placement, drafted based on functionality instead of specific pixel sizes, allowing it to endure changes in the interface.

4.2.2 Self-preferencing: Categories, legal characterisation and proof

Self-preferencing is not a single phenomenon and does not have a single legal characterisation. Six situations must be distinguished. (i) Preferential display by an operator without market power is, in general, lawful commercial conduct. Then, a retailer is not obliged to promote a competitor's goods. (ii) Preferential display by an undertaking holding a dominant position may constitute abuse under Article 27 of the Competition Law No. 23/2018/QH14, in particular under Article 27(1)(g), which prohibits preventing the entry or expansion of other undertakings, and Article 27(1)(e), which prohibits imposing conditions leading to the exclusion of other undertakings, but only where the conditions of dominance in Article 24 and the substantial-market-power factors in Article 26 are established.⁶⁶ (iii) Preferential display by a designated gatekeeper is prohibited per se by Article 6(5) of the DMA, without proof of effect. This is a regime-specific rule that presupposes a designation mechanism and cannot be transposed as a general prohibition.⁶⁷ (iv) Discriminatory ranking treats materially comparable offerings differently without objective justification and is capable of being unlawful independently of dominance where a consumer-protection provision such as Article 10(3)(b) of the 2023 Law applies. (v) Paid prioritisation is lawful if identified as such, and is governed by the labelling analysis in 4.2.1 rather than by competition law. (vi) Relevance-based ranking that happens to favour the operator's own goods because they are cheaper, better rated or more reliably fulfilled is not self-preferencing in any legally relevant sense, and a rule that captured it would harm consumers.

The difficulty in Vietnam is not the absence of a prohibition but the difficulty of proving one. Establishing abuse under Article 27 requires the National Competition Committee first to establish dominance under Articles 24 and 26, which, in two-sided platform markets, raises well-known problems of market definition⁶⁸ and then to establish that the display conduct prevented entry or expansion. Both stages require access to information held exclusively by the operator. Article 17(3)(d) of the 2025 Law provides a route to that information, but only where conduct already shows signs of a violation, which is precisely what cannot be shown without the information.⁶⁹ This circularity is the operative obstacle, and it is not cured by adding further substantive prohibitions.

⁶⁶ NATIONAL ASSEMBLY OF THE SOCIALIST REPUBLIC OF VIETNAM. Competition Law No. 23/2018/QH14 of 12 June 2018, Arts. 27(1)(e) and 27(1)(g); the conditions of dominance are in Art. 24 and the substantial-market-power factors in Art. 26. Available at: <https://datafiles.chinhphu.vn/cpp/files/vbpq/2022/07/23-2018-qh14..pdf> (accessed 18 September 2026).

⁶⁷ EUROPEAN PARLIAMENT AND COUNCIL OF THE EUROPEAN UNION. Regulation (EU) 2022/1925 (Digital Markets Act), OJ L 265, 12.10.2022, Art. 6(5); the designation procedure is in Arts. 3 and 4. Ibid.

⁶⁸ NATIONAL ASSEMBLY OF THE SOCIALIST REPUBLIC OF VIETNAM. Competition Law No. 23/2018/QH14, Arts. 24 and 26. Available at: <https://datafiles.chinhphu.vn/cpp/files/vbpq/2022/07/23-2018-qh14..pdf> (accessed 18 September 2026).

⁶⁹ NATIONAL ASSEMBLY OF THE SOCIALIST REPUBLIC OF VIETNAM. Law on E-Commerce No. 122/2025/QH15, Art. 17(3)(d); the remaining obligations for large platforms are in Art. 17(3)(a)-(c). Ibid.

The article proposes that the evidentiary standard be specified, not just simply left to be developed case by case, and that it proceeds in three steps. The first is a visibility comparison: the average display position, impression share and share of first-screen placements of the operator's own offerings compared with materially comparable third-party offerings, matched on price band, rating and fulfilment method. Jurgensmeier and Skiera (2025) show that such comparisons are technically feasible from data platforms already hold.⁷⁰ The second is a counterfactual step, since a visibility differential is consistent with superior relevance: the question is whether the differential survives when relevance proxies such as conversion rate, return rate, dispute rate, click-through rate conditional on position are held constant. A first-party product that ranks higher and also converts better and is returned less is not evidence of abuse.⁷¹ The third step concerns explanation: where an unexplained differential is established, the burden of adducing the parameter configuration, the change history and any internal documentation bearing on first-party treatment would rest on the operator, which alone possesses them. Only the third step requires legislative change and the first two are matters of investigative practice.

On the comparative question, the DMA's *per se* prohibition is not transferable to Vietnam. It fails the institutional criterion: Article 6(5) operates only within the designation machinery of Articles 3 and 4 of the DMA, and Vietnamese law contains no equivalent designation procedure, no quantitative thresholds and no body competent to conduct a designation.⁷² Transposing the prohibition without the machinery would produce either a rule applying to every platform which, given category (vi) above, would prohibit conduct that benefits consumers or a rule applying to no one. What is transferable is narrower: the DMA's underlying insight that where a structural conflict of interest exists, the burden of justifying differential treatment can properly be placed on the party that created the conflict. That insight is given effect in the third step of the test above, which is an allocation of the evidential burden.

4.2.3 Visibility restriction: Terminology, categories and the notice gap

The term "shadow-banning" originates in social-media content moderation, where it denotes a covert reduction in the reach of a user's posts. Its extension to e-commerce requires justification, and the justification is functional in both settings a participant's audience is reduced by a decision of the operator without the participant being told. The extension is nonetheless imprecise, because it collapses measures with materially different legal consequences. This analysis therefore uses 'visibility restriction' as the genus and distinguishes six species: (i) account suspension, which terminates the ability to transact; (ii) delisting, which removes a specific listing; (iii) demotion, which lowers a listing's position by administrative decision; (iv) reduced recommendation frequency, which lowers the rate at which a listing is surfaced; (v) ranking change, which alters position as a consequence of a general parameter change as opposed to a decision directed at the seller; and (vi) content moderation, which removes material for unlawfulness or breach of platform terms. Only the first three are decisions directed at an identified seller. "Shadow-banning" is used

⁷⁰ JURGENSMEIER, L., and SKIERA, B. "Measuring Self-Preferencing on Digital Platforms". 2025. Ibid.

⁷¹ KITTAKE, Y., SATO, S., and ZENNYO, Y. "Self-preferencing by platforms: A literature review". 2023. Ibid.

⁷² EUROPEAN PARLIAMENT AND COUNCIL OF THE EUROPEAN UNION. Regulation (EU) 2022/1925 (Digital Markets Act), OJ L 265, 12.10.2022, Art. 6(5); the designation procedure is in Arts. 3 and 4. Ibid.

hereafter only for covert measures within the second, third and fourth categories, which is the narrow sense in which Leerssen (2023) uses it.⁷³

Article 17(2)(g) of the 2025 Law requires an intermediary platform to notify a seller at least five days before suspending, terminating or imposing any restriction on the seller's account where there is a legitimate reason, subject to exceptions for measures taken at the request of a state agency.⁷⁴ This is a meaningful protection and, on its face, is drafted broadly enough to capture measures in the first three categories above. Two limits have to be noted. First, the provision requires notice but not reasons: a seller learns that a restriction is coming without learning what conduct occasioned it, and cannot therefore contest it or correct the conduct. Second, the reference to the seller's 'account' leaves it uncertain whether a demotion that does not affect account status falls within the provision at all which is the very measure most likely to be used and least likely to be detected.

Article 4(1) of the P2B Regulation offers the comparator. Where a provider restricts or suspends the provision of its services to a given business user, it must provide, on a durable medium, a statement of the reasons for the decision, and Article 4(5) requires that the statement contain reference to the specific facts or circumstances, including the content of third-party notifications, that led to the decision, as well as the applicable grounds in the provider's terms.⁷⁵ Notice and reasons are distinct duties, and it is the second that makes a remedy possible. It is well noted, however, that the P2B model is not costless: a duty to give individualized reasons for every visibility change would be administrable on a platform making millions of automated ranking adjustments daily, and the European drafting avoids this by confining the duty to decisions to restrict, suspend or terminate instead of extending it to ranking outcomes generally.

This article suggests a specific approach to notice and reasoning, adjusted according to the categories mentioned in section 4.2.3, which will not be applied the same way for everyone. When a seller is facing account suspension, termination, or removal from the list, the operator must provide advance notice along with a personalized explanation detailing the exact behavior or listing that is the issue and the regulation being used. For cases where a seller is being demoted or receiving fewer recommendations, the operator gives immediate notice with reasons based on the relevant grounds, but does not reveal detection limits, as sharing this information could lead to avoidance. For changes that affect all sellers generally, individual notices are not needed. The appropriate disclosure is a change log regarding ranking policies, which also supports the record-keeping purpose described in section 4.1.3. In every situation, the seller has a specific time frame to reply, and the operator has a set time to respond, with their communications being part of the kept records. The distinction between notice before restriction, contemporaneous notice and a subsequent statement of reasons is deliberate as a covert measure loses its enforcement value if announced in advance, which draws in current attention instead of warning.

⁷³ LEERSEN, P. "An end to shadow banning? Transparency rights in the digital services act between content moderation and curation". *Computer Law & Security Review*, v. 48, pp. 105790, 2023. <https://doi.org/10.1016/j.clsr.2023.105790>

⁷⁴ NATIONAL ASSEMBLY OF THE SOCIALIST REPUBLIC OF VIETNAM. Law on E-Commerce No. 122/2025/QH15, Art. 17(2)(g). The obligation is subject to an exception for measures taken at the request of a competent state agency. Available at: <https://datafiles.chinhphu.vn/cpp/files/vbqq/2026/01/luat122.2025.qh15.pdf> (accessed 18 September 2026).

⁷⁵ EUROPEAN PARLIAMENT AND COUNCIL OF THE EUROPEAN UNION. Regulation (EU) 2019/1150 of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services, OJ L 186, 11.7.2019, pp. 57-79. Arts. 4(1) and 4(5). Available at: <https://eur-lex.europa.eu/eli/reg/2019/1150/oj> (accessed 18 September 2026).

Section 4.2 therefore yields three proposals: a functional labelling rule for paid placement, a three-step evidentiary test for self-preferencing with a burden-shift at the third step, and a differentiated notice-and-reasons duty for visibility restrictions. None requires a designation regime and none requires a new authority.

4.3 Legal liability and subject rights in the algorithmic environment

Vietnamese civil liability rests on fault, causation and damage. Applied to a display decision, each element is difficult for the claimant to establish the conduct is a parameter setting, the causal path from that setting to a particular seller's lost sales runs through the behaviour of millions of users, and the evidence bearing on all of it is held by the defendant. The consequence is not that liability is denied but that it is never claimed. This section asks what might follow, and answers the question in a narrower way than the earlier draft did.

4.3.1 Procedural accountability and its relationship to fault-based liability

Procedural duties to document design decisions, to retain logs, to be able to explain, to assess impact, to submit to audit can stand in five different relationships to civil liability, and the difference matters. They may create free-standing regulatory obligations enforceable by administrative sanction irrespective of any damage. They may ease the claimant's burden of proof by making evidence available. They may give rise to a rebuttable presumption against the operator where the required record is absent. They may support an adverse evidentiary inference without a formal presumption. Or they may found a separate head of administrative liability for the documentation failure itself.^{76,77} These are five mechanisms, not one, and a proposal that does not say which it means is not implementable.

The article proposes the second, fourth and fifth of these mechanisms, and not the first or third. Specifically, a retention duty enforceable by administrative sanction for its breach as such (mechanism five). This is a rule that where an operator fails to produce a record it was obliged to retain, the tribunal may draw an inference adverse to the operator on the issue to which the record was relevant (mechanism four). In consequence, a practical easing of the claimant's evidential position (mechanism two). We do not propose a reversal of the burden of proof on the substantive issue, nor a rebuttable presumption of unlawfulness, nor strict liability. The reasons are as follows. A presumption of unlawfulness arising from a documentary failure would treat a record-keeping breach as proof of a competition or consumer-law violation, which is disproportionate and would be vulnerable to challenge. Strict liability for display outcomes would penalise ordinary optimisation, given category (vi) in Section 4.2.2. The adverse-inference mechanism achieves most of the practical effect of a presumption while leaving the tribunal's assessment intact and confining the consequence to the issue on which the evidence was withheld. Procedural accountability, on this account, does not resolve problems of causation, which prevents an operator from benefiting from its own failure to preserve the evidence by which causation might have been assessed.

The allocation of the documentary burden among the actors in the ecosystem follows the control-capacity and foreseeability criteria developed by Zhang and He (2026).⁷⁸ Where the operator designs, tunes, and deploys the display system itself as the ordinary case on Vietnamese marketplace platforms, control capacity and foreseeability coincide in the operator and the whole of the burden rests there. Where

⁷⁶ HORNEBER, D., and LAUMER, S. "Algorithmic Accountability". 2023. Ibid.

⁷⁷ PAPAGIANNIDIS, E., MIKALEF, P., and CONBOY, K. "Responsible artificial intelligence governance: A review and research framework". 2025. Ibid.

⁷⁸ ZHANG, Z., and HE, J. "Who bears the responsibility? Legal liability allocation for AI agent conduct in platform ecosystem". 2026. Ibid.

a display component is licensed from a third-party provider, the operator retains the duty to retain configuration and outcome records, since it controls deployment, while the developer's responsibility is limited to the documentation of the component's design and known limitations. Sellers bear no documentary duty, having no control over the system. This allocation matters for Vietnam, where the largest platforms operate proprietary systems and the third-party case is presently rare but likely to become common as ranking-as-a-service offerings develop.

4.3.2 Separating the rights of consumers, data subjects and business users

The earlier draft discussed consumers, users, sellers, traders and data subjects within a single frame. They are distinct, their interests diverge, and a framework that does not separate them will misallocate remedies. Six positions can be distinguished. A consumer receiving recommendations is concerned with manipulation, with the identification of commercial content and with freedom of choice pursuant to the applicable Vietnamese provisions, which are Articles 10(1)(a) and 10(3)(b) of the 2023 Law.⁷⁹ A data subject whose personal data are processed to generate those recommendations has a distinct interest in the lawfulness of the processing, governed by data-protection law. A third-party seller affected by ranking is concerned with the fairness of the ordering and with access to the evidence needed to contest it. A business user subject to a restriction is concerned with notice, reasons and remedy, under Article 17(2)(g).⁸⁰ An advertiser purchasing visibility is concerned with the delivery of what it paid for and with disclosure of auction mechanics. The operator has a legitimate interest in the confidentiality of its systems and in the integrity of its detection mechanisms. Table 3 maps these positions against the display categories defined in Section 2.1, the applicable provision, and the remedy this segment proposes.

Table 3. Affected positions, applicable Vietnamese provisions and proposed remedies, by category of algorithmic display.

Display category (s. 2.1)	Affected position	Interest engaged	Applicable Vietnamese provision	Proposed remedy
Ranking system	Consumer	Accuracy of the ordering presented as neutral	2023 Law Art. 10(3)(b); 2025 Law Art. 15(1)(d)	Minimum content standard for the Art. 15(1)(d) disclosure
Ranking system	Third-party seller	Fairness of ordering; access to evidence	Competition Law Arts. 24-27	Three-step evidentiary test; burden of adducing records on operator (s. 4.2.2)
Recommender system	Consumer	Freedom from manipulation; choice	2023 Law Art. 10(1)(a)	Right to decline personalisation with default-neutrality requirement (s. 4.3.2)

⁷⁹ NATIONAL ASSEMBLY OF THE SOCIALIST REPUBLIC OF VIETNAM. Law on Protection of Consumers' Rights No. 19/2023/QH15, Art. 10(1)(a), Art. 10(3)(b). Available at: https://datafiles.chinhphu.vn/cpp/files/vbpq/2023/7/luat19_2023.pdf (accessed 18 September 2026).

⁸⁰ NATIONAL ASSEMBLY OF THE SOCIALIST REPUBLIC OF VIETNAM. Law on E-Commerce No. 122/2025/QH15, Art. 17(2)(g). The obligation is subject to an exception for measures taken at the request of a competent state agency. Ibid.

Display category (s. 2.1)	Affected position	Interest engaged	Applicable Vietnamese provision	Proposed remedy
Recommender system	Data subject	Lawfulness of processing; information on logic	Data-protection framework (outside the 2025 Law)	Coordination clause; no new right proposed here
Paid placement	Consumer	Identification of commercial content	2025 Law Art. 11(3); 2023 Law Art. 10(1)(a)	Functional labelling standard by decree (s. 4.2.1)
Paid placement	Advertiser	Delivery of purchased visibility; auction transparency	Contract; 2025 Law Art. 11(3)	No new remedy proposed; noted as outside scope
Self-preferencing	Third-party seller	Non-exclusion; equal treatment of comparables	Competition Law Arts. 27(1)(e), 27(1)(g)	Counterfactual test and burden shift at step three (s. 4.2.2)
Visibility restriction (suspension, termination, delisting)	Business user	Notice, reasons, opportunity to respond	2025 Law Art. 17(2)(g)	Prior notice plus individualised statement of reasons (s. 4.2.3)
Visibility restriction (demotion, reduced frequency)	Business user	Awareness of, and ability to contest, covert measures	Uncertain whether Art. 17(2)(g) applies (GAP)	Contemporaneous notice with ground-level reasons; clarify scope of Art. 17(2)(g)
All categories	Platform operator	Confidentiality of systems; integrity of detection	No express protection in Art. 17(3)(d) (GAP)	Tiered access model (s. 4.3.4); no administrative source-code disclosure

On algorithmic choice, this study proposes that consumers be given a right to decline personalisation of display based on behavioural profiling, exercisable without any degradation of service or access conditions. For the reasons given in Section 2.4, the right ought to be coupled with a default-neutrality requirement: the non-personalized mode must be presented with equal prominence to the personalized mode at the point of choice, and the choice must not be re-presented in a manner that induces reversion. Article 38 of the DSA supplies the model for the right and Article 17 of the Chinese Provisions for the off-switch, but neither addresses the default question, which is where the empirical literature suggests the effect actually lies.^{81,82,83} The proposal should be located in the Law on Protection of Consumers'

⁸¹ NATIONAL ASSEMBLY OF THE SOCIALIST REPUBLIC OF VIETNAM. Law on E-Commerce No. 122/2025/QH15, Art. 17(2)(g). The obligation is subject to an exception for measures taken at the request of a competent state agency. Art. 38. The obligation applies only to very large online platforms and very large online search engines designated under Art. 33. Available at: <https://datafiles.chinhphu.vn/cpp/files/vbpq/2026/01/luat122.2025.qh15.pdf> (accessed 18 September 2026).

⁸² CYBERSPACE ADMINISTRATION OF CHINA. Provisions on the Administration of Algorithmic Recommendations in Internet Information Services, 2022, Arts. 16 and 17. Ibid.

Rights, not just the Law on E-Commerce, since it is a consumer right of general application and Article 39(3) already establishes the large-platform category to which it would most naturally attach.^{84,85}

4.3.3 The right to explanation: Legal basis, scope and limits

There is no general right to an explanation of algorithmic display in Vietnamese law, and it is important not to assert one. What exists are several narrower entitlements with distinct legal bases and distinct content, and they are kept apart. General information about system logic is what Article 15(1)(đ) of the 2025 Law and Article 16 of the Chinese Provisions require, and it is owed to the public at large.^{86,87} Disclosure of the main ranking parameters and their relative importance is what P2B Regulation Article 5 requires, and it is owed to business users.⁸⁸ An individual statement of reasons for a specific adverse decision is what P2B Regulation Article 4 requires, and it is owed only to the affected business user in respect of that decision.⁸⁹ Meaningful information about the logic involved in automated decision-making is a data-protection entitlement owed to a data subject, and Article 24 of the Chinese Personal Information Protection Law confers an analogous right to request an explanation of decisions with a significant effect.^{90,91} Technical explainability as a model-level account of why a particular output was produced is a research objective and is not a legal entitlement anywhere.

The limits of any such entitlement must be stated with equal precision, and there are four. Trade secrecy protects the parameter weights and the model architecture, though it does not protect the fact that a first-party preference exists. Cybersecurity and integrity considerations justify withholding detection thresholds, since a seller who knows the threshold can operate just beneath it. Technical opacity, in the sense distinguished in Section 2.3, means that a model-level explanation may not exist to be given, so a duty to provide one would be a duty to do the impossible. Epistemic

⁸³ MITOVA, E., BLASSNIG, S., STRIKOVIC, E., URMAN, A., DE VREESE, C., and ESSER, F. "Exploring users' desire for transparency and control in news recommender systems: A five-nation study". 2024. Ibid.

⁸⁴ NATIONAL ASSEMBLY OF THE SOCIALIST REPUBLIC OF VIETNAM. Law on Protection of Consumers' Rights No. 19/2023/QH15, Art. 39(3). Available at: https://datafiles.chinhphu.vn/cpp/files/vbqq/2023/7/luat19_2023.pdf (accessed 18 September 2026).

⁸⁵ GOVERNMENT OF VIETNAM. Decree No. 55/2024/NĐ-CP, Art. 2(2). Available at: <https://datafiles.chinhphu.vn/cpp/files/vbqq/2024/5/55-nd-cp.signed.pdf> (accessed 18 September 2026).

⁸⁶ NATIONAL ASSEMBLY OF THE SOCIALIST REPUBLIC OF VIETNAM. Law on E-Commerce No. 122/2025/QH15, Art. 15(1)(đ); see also Art. 11(3) on the disclosure of transaction conditions, including display prioritisation policy. Ibid.

⁸⁷ CYBERSPACE ADMINISTRATION OF CHINA. Provisions on the Administration of Algorithmic Recommendations in Internet Information Services, 2022, Arts. 16 and 17. Ibid.

⁸⁸ EUROPEAN PARLIAMENT AND COUNCIL OF THE EUROPEAN UNION. Regulation (EU) 2019/1150 on promoting fairness and transparency for business users of online intermediation services, OJ L 186, 11.7.2019, pp. 57-79. Art. 5; the definition of "ranking" is in Art. 2(8). Available at: <https://eur-lex.europa.eu/eli/reg/2019/1150/oj> (accessed 18 September 2026).

⁸⁹ EUROPEAN PARLIAMENT AND COUNCIL OF THE EUROPEAN UNION. Regulation (EU) 2019/1150 of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services, OJ L 186, 11.7.2019, pp. 57-79. Arts. 4(1) and 4(5). Ibid.

⁹⁰ EUROPEAN PARLIAMENT AND COUNCIL OF THE EUROPEAN UNION. Regulation (EU) 2016/679 of 27 April 2016 (General Data Protection Regulation), OJ L 119, 4.5.2016. Arts. 13(2)(f), 14(2)(g), 15(1)(h) and 22. Available at: <https://eur-lex.europa.eu/eli/reg/2016/679/oj/eng> (accessed 18 September 2026).

⁹¹ STANDING COMMITTEE OF THE NATIONAL PEOPLE'S CONGRESS OF THE PEOPLE'S REPUBLIC OF CHINA. Personal Information Protection Law, 2021. Art. 24. (English translation, DigiChina, Stanford University). Ibid.

complexity means that an explanation technically accurate but incomprehensible to its recipient discharges the duty in form only. The stakes-sensitive approach of Munch, Bjerring and Mainz (2024) offers the workable response: the depth of explanation owed might vary with the severity of the effect on the recipient⁹², which is why we recommend an individualized statement of reasons for suspension and delisting, a ground-level statement for demotion, and no individual duty at all for general ranking outcomes. He and Zhang (2025) frame the same problem as a conflict of rights as the affected party's procedural interest against the operator's confidentiality interest, and their comparative treatment supports resolving it by graduating the remedy, not by subordinating one interest to the other.⁹³

For the platform-seller relationship, we propose a notice, reasons and response procedure, modelled on but narrower than P2B Regulation Article 4 and calibrated as set out in Section 4.2.3. Its value is not only compensatory. A procedure that generates a dated record of the measure, the ground relied on and the seller's response creates the documentary series from which a pattern of adverse treatment could later be identified by the seller, by the National Competition Committee under Articles 24 to 27 of the Competition Law, or by the Ministry of Industry and Trade exercising the power in Article 17(3)(d). The procedure is thus part of the evidentiary infrastructure identified in the introduction as the thing Vietnamese law presently lacks.

4.3.4 Risk-triggered accountability: Triggers, thresholds and consequences

The proposal that enhanced obligations attach only on evidence of risk is the element of this study. The underlying rationale is that uniform obligations are either too heavy for small platforms or too light for large ones, and that the compliance cost of continuous audit is not justified where no indicator of harm is present.⁹⁴ What follows distinguishes baseline duties, which bind every platform operator, from enhanced duties, which attach only when a trigger is met.

Baseline duties must apply to all platform operators, regardless of their scale, as these are requirements for confirmation rather than steps for monitoring, including disclosure of main selection criteria under Article 15(1)(đ) as labelling of paid placement, notice and reasons for measures directed at an identified seller, and retention of the records specified in Table 4 for the periods there stated. Enhanced duties of an algorithmic impact assessment, provision of the Article 17(3)(d) algorithm description without a prior finding of suspected violation, and, at the highest tier, independent verification can attach only where a trigger is met. Four triggers are proposed. The first is an abnormal visibility fluctuation, which requires definition: this article proposes a sustained change in a seller's or product category's average display position or impression share exceeding a defined percentage relative to the trailing period, persisting beyond a defined number of days, and not explained by a disclosed general parameter change or by a corresponding change in the seller's own performance metrics. The percentage and duration should be set by decree and adjusted with experience. What matters is that the trigger is measurable from data the platform already holds and does not require the regulator to inspect the model. The second is a concentration of seller complaints on the same measure type within a defined period. The third is a first-party visibility differential surviving the

⁹² MUNCH, L.A., BJERRING, J.C., and MAINZ, J.T. "Algorithmic decision-making: The right to explanation and the significance of stakes". *Big Data & Society*, v. 11, n. 1, 2024. <https://doi.org/10.1177/20539517231222872>

⁹³ HE, J., and ZHANG, Z. "Algorithm Power and Legal Boundaries: Rights Conflicts and Governance Responses in the Era of Artificial Intelligence". 2025. *Ibid.*

⁹⁴ DEGEN, K., and GLEISS, A. "Time to break up? The case for tailor-made digital platform regulation based on platform-governance standard types". *Electronic Markets*, v. 35, n. 1, 2025, pp. 5. <https://doi.org/10.1007/s12525-024-00747-7>

counterfactual step in Section 4.2.2. The fourth is a finding by the competent authority of inadequate advertising identification.

The remaining design questions raised in review are answered as follows. Risk indicators would be identified by the Ministry of Industry and Trade in the first instance, on the basis of platform self-reporting under the baseline retention duty and of complaints received, with referral to the National Competition Committee where the third trigger is met, since that trigger raises a competition question.⁹⁵ Data to be preserved, and the periods, are specified in Table 4. Access must be tiered to aggregate visibility statistics available to the supervising authority on request, parameter configurations and change histories available only upon a trigger being met and only to designated officials under a confidentiality obligation, model architecture and source code not disclosed administratively at all, but available to a court-appointed expert in contested proceedings. Independent audit is not mandatory at this stage, for the capacity and capture reasons given in Section 4.1.3, where verification is required, it would be conducted by the authority itself with expert assistance, and any future move to accredited third-party audit should be preceded by an accreditation regime specifying auditor qualification, rotation, and prohibited concurrent engagements.⁹⁶ Procedural safeguards include notice to the operator that a trigger has been met, an opportunity to explain before enhanced duties are activated, and a right of administrative appeal. The consequence of non-compliance would be administrative sanction for the record-keeping breach together with the adverse-inference rule described in Section 4.3.1, and not a presumption of substantive unlawfulness.

Table 4. Proposed framework for Vietnam: obligations, triggering conditions, retention, competent authority, beneficiary and consequence of non-compliance.

Obligation	Triggering condition	Record retention and	Competent authority	Beneficiary	Consequence of non-compliance
BASELINE - Disclosure of main selection criteria	None; applies to all operators	Published version history, 3 years	Ministry of Industry and Trade	Consumers, sellers	Administrative penalty for non-disclosure
BASELINE - Labelling of paid placement	None; applies to all operators	Interface specification records, 2 years	Ministry of Industry and Trade	Consumers	Administrative penalty; conduct may also be deceptive under 2023 Law Art. 10(1)(a)
BASELINE - Notice and reasons for seller-directed measures	Any measure directed at an identified seller	Measure, ground, notice and seller response, 3 years	Ministry of Industry and Trade	Business users	Administrative penalty; measure voidable as against the seller
BASELINE - Record retention	None; applies to all operators	Ranking parameter configurations and change log (3 years); A/B test records affecting ranking (2 years); seller-measure log (3 years); aggregate visibility statistics by seller class (2 years)	Ministry of Industry and Trade	The State; indirectly all parties	Administrative penalty AND adverse evidentiary inference on the issue to which the missing record was relevant

⁹⁵ NATIONAL ASSEMBLY OF THE SOCIALIST REPUBLIC OF VIETNAM. Competition Law No. 23/2018/QH14, Arts. 24 and 26. Ibid.

⁹⁶ LAUX, J., WACHTER, S., and MITTELSTADT, B. "Taming the few: Platform regulation, independent audits, and the risks of capture created by the DMA and DSA". 2021. Ibid.

Obligation	Triggering condition	Record retention and	Competent authority	Beneficiary	Consequence of non-compliance
ENHANCED - Algorithmic impact assessment	Trigger 1: abnormal visibility fluctuation exceeding decree threshold, persisting beyond decree period, unexplained by disclosed parameter change or seller performance	Assessment retained 5 years	Ministry of Industry and Trade	Consumers, sellers	Administrative penalty; publication of finding
ENHANCED - Algorithm description under Art. 17(3)(d) without prior suspicion finding	Trigger 2: concentration of seller complaints of the same measure type within a defined period	Description and underlying records, 5 years	Ministry of Industry and Trade	Business users	Administrative penalty; adverse inference
ENHANCED - Production of parameter and comparable-treatment data	Trigger 3: first-party visibility differential surviving counterfactual testing	Full ranking and outcome data for the period, 5 years	National Competition Committee (on referral)	Competing sellers	Adverse inference in abuse proceedings under Competition Law Arts. 24-27
ENHANCED - Corrective labelling order and verification	Trigger 4: finding of inadequate advertising identification	Remediation record, 3 years	Ministry of Industry and Trade	Consumers	Administrative penalty; repeat non-compliance escalates tier
NOT PROPOSED - Mandatory independent third-party audit	Deferred pending an auditor accreditation regime (s. 4.1.3, 4.4)	-	-	-	Rejected on capacity and capture grounds
NOT PROPOSED - Per se prohibition of self-preferencing	Deferred pending a designation mechanism (s. 4.2.2)	-	-	-	Rejected as untransferable outside a gatekeeper framework

4.4 Institutional feasibility of the proposed framework in Vietnam

A normative framework that Vietnamese authorities cannot administer is not a contribution, and the proposals above are assessed against capacity as well as principle. Four observations are in order. First, the supervisory architecture already exists: the Ministry of Industry and Trade holds the e-commerce supervisory function and the Article 17(3)(d) power. The National Competition Committee holds the powers under the Competition Law, and no new regulator is required by anything proposed here. That is a design constraint the article accepted at the outset, and it is why the gatekeeper-designation and mandatory-audit routes were rejected. Second, technical capacity is the binding constraint. Evaluating a visibility differential or an unexplained ranking change requires data-analysis capability, and Vietnamese regulators are still developing it.⁹⁷ The framework is therefore designed so that the

⁹⁷ GAWER, A., and BONINA, C. "Digital platforms and development: Risks to competition and their regulatory implications in developing countries". 2024. Ibid.

triggers are computed from data the platform must report and the regulator must extract, and so that the regulator's task at the trigger stage is verification instead of discovery. Third, compliance cost falls disproportionately on smaller operators, and the baseline duties have been kept to four for that reason. The retention duty is the only one with a material ongoing cost, and it is a storage cost more than a professional-services cost. Fourth, the framework's weakest point is the third trigger, which requires a counterfactual analysis that neither authority is presently equipped to conduct without external expertise. We would note this, not just conceal it, and Section 5 identifies it as the priority for capacity-building.

5. Conclusion and policy implications

The article asked how Vietnamese law should govern algorithmic display systems given the enforcement capacity of Vietnamese regulators and the legitimate confidentiality interests of platform operators. The analysis identified three enforceability gaps in the newly adopted framework and proposed a graduated response to each.

The first gap is definitional. Articles 15(1)(đ) and 11(3) of the Law on E-Commerce No. 122/2025/QH15 and Article 10(3)(b) of the Law on Protection of Consumers' Rights No. 19/2023/QH15 impose disclosure duties whose object no Vietnamese provision defines,^{98,99} with the consequence that the required granularity of disclosure is indeterminate and no graduated obligation can attach. The second is evidentiary. The algorithm-description power in Article 17(3)(d) is unsupported by any retention duty and is triggered only by signs of a violation that cannot be detected without the records the duty would have preserved. The third is procedural. Article 17(2)(g) requires notice of restriction but not reasons, and it is uncertain whether it reaches demotion at all.¹⁰⁰

Three sets of recommendations follow. On identification and transparency, Article 3 of the Law on E-Commerce define algorithmic display systems functionally, and the implementing decree specifies a minimum content for the Article 15(1)(đ) disclosure and a functional labelling standard for paid placement. On market fairness, the evidentiary route to establishing unlawful self-preferencing ought to be specified in guidance, with the burden of adducing parameter and change records resting on the operator once an unexplained visibility differential survives counterfactual testing. On accountability, a baseline retention duty is imposed on all operators, enhanced duties attach on the four triggers specified in Section 4.3.4, and failure to produce a required record might ground an adverse evidentiary inference and an administrative sanction, but not a presumption of substantive unlawfulness. Of these, the definitional amendment requires primary legislation. The remainder can be implemented at decree level, which matters given that the 2025 Law's implementing decrees are being drafted now.

The theoretical contribution is a modest one and will be stated as such. The article does not offer a new theory of algorithmic accountability. It offers an account of how the established transparency, choice and risk-based accountability principles behave when the implementing institution has limited technical capacity and no designation machinery. Under those conditions, the analysis suggests, the relative value of the three principles inverts from the ordering assumed in the European literature:

⁹⁸ NATIONAL ASSEMBLY OF THE SOCIALIST REPUBLIC OF VIETNAM. Law on E-Commerce No. 122/2025/QH15, Art. 15(1)(đ); see also Art. 11(3) on the disclosure of transaction conditions, including display prioritisation policy. Ibid.

⁹⁹ NATIONAL ASSEMBLY OF THE SOCIALIST REPUBLIC OF VIETNAM. Law on Protection of Consumers' Rights No. 19/2023/QH15, Art. 10(3)(b). Ibid.

¹⁰⁰ NATIONAL ASSEMBLY OF THE SOCIALIST REPUBLIC OF VIETNAM. Law on E-Commerce No. 122/2025/QH15, Art. 17(2)(g). The obligation is subject to an exception for measures taken at the request of a competent state agency. Ibid.

consumer-facing disclosure does least, the evidentiary rules do most, and the intermediate case of user control depends on default design as opposed to the existence of the right. This is a claim about the institutional contingency of governance principles, and it is testable in other mid-capacity jurisdictions.

The practical implications fall on three groups. For platform operators, the baseline retention duty is the significant change: it requires that parameter configurations, ranking-policy change logs and seller-measure records be preserved in a form capable of being produced, which is a systems decision and is cheaper to build in than to retrofit. For sellers, the notice-and-reasons procedure converts an unexplained loss of visibility into a documented decision capable of being contested. For consumers, the labeling and default-neutrality initiatives function at the interface compared to relying on disclosures that they must peruse.

The policy implication for Vietnam is one of sequencing. The definitional amendment ought to come first, because nothing else can attach without it. The retention duty would need to come second, because it is cheap, requires no new institution and generates the evidence on which everything else depends. The trigger thresholds are set provisionally and revised on experience, since their correct values cannot be determined in advance. Independent audit should be deferred until an accreditation regime exists, and gatekeeper-style ex ante prohibition is deferred until there is a designation mechanism and the analytical capacity to operate it. The temptation to legislate the most demanding available standard will be resisted: an unenforced obligation is worse than a narrower enforced one, because it produces the appearance of protection without its substance.

Four lines of future research follow, and each addresses a limitation acknowledged in Section 3.4. First, empirical measurement: applying visibility metrics to Vietnamese platforms would test whether the differentials the framework is designed to detect actually occur and at what magnitude, which is also the evidence needed to set the trigger thresholds. Second, case analysis: as decisions of the National Competition Committee and of the courts accumulate under the 2025 Law, the enforceability gaps identified here can be tested against practice. Third, regulator interviews: the capacity constraints assessed in Section 4.4 are inferred from institutional structure and would be better established by direct study of the two authorities concerned. Fourth, comparison with other mid-capacity jurisdictions, namely Indonesia, India, Brazil, would test the article's central theoretical claim that the relative value of governance principles is contingent on implementing capacity. We would regard the first of these as the most urgent, since without it the trigger thresholds proposed here rest on judgement, not just evidence.

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