Analysis of Consumers' Rights and Interests Protection in Internet Shopping under E-Commerce Background

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ABSTRACT

Online shopping has been around for just a few years, but it is developing rapidly. This is related to the convenience, cheapness and efficiency of online shopping. Concomitantly, it is the various legal risks that consumers face in online shopping, including the infringement of personal rights, the infringement of contractual rights and interests, and even the face of fraud and other criminal activities. In order to strengthen the protection of the rights and interests of online shopping consumers, relevant laws need to be perfected in all aspects to meet the needs of the rapid development of e-commerce.

Keywords: e-commerce online shopping consumer rights

1. INTRODUCTION

China has witnessed rapid development in online shopping in recent years. According to the report issued by the Zhicheng finance and Economics Network, only 2017 double eleven this day, China's total network sales reached 253.97 billion yuan, representing an increase of 43.45% from RMB177.04 billion on the same day in 2016 [1]. Then compare the annual online shopping data from the phenomenon of online shopping is not difficult to find online shopping showing a trend of blowout year by year, has formed a huge impact on some traditional retail industry.

2. THE RAPID DEVELOPMENT OF ONLINE SHOPPING ANALYSIS

Compared with traditional shopping, online shopping has obvious advantages. In the Internet age, the business needs of consumers can be fulfilled without leaving home to complete the business transaction, which is of great attraction to both businesses and consumers.

(1) For businesses, online shop can reduce the cost of goods or services, quickly gathered to enhance popularity. Online shop can avoid the high store rent, large-scale stores only need to have a storage point, and storage points do not need to open in the bustling downtown, the rent will be required to pay a lot of cheaper. Part of the smaller shops with warehouse points are not, just some entities and wholesalers, receive orders directly notify the partners in accordance with the two parties prior agreement delivery. The savings in store rent spread to the cost of goods or services, the same goods or services, online store prices will be much lower than the physical store, which is the most consumers choose online shopping the most important factor.
"The younger, the lower income is the mainstream features of online shopping users in China," therefore, the online shopping consumer group is mainly "for the price has a higher sensitivity of consumer groups." [2]

In addition, many online shops regularly organize or participate in some buy activities. Network buy can play a very good advertising role for the merchants, enabling a large number of consumers to quickly recognize merchants to provide goods or services, business visibility has been rapidly improved, and its goods or services can quickly occupy a competitive market A place, sometimes also allows merchants to stock out of stock quickly long-term stockpiling, reduce backlog.

(2) For consumers, the convenience of online consumption, saving time and effort and inexpensive. Anyone as long as a network cable, open a bank card online payment, and then register an online account, you can easily achieve the desire of online shopping. Open the web, a variety of products and services dazzling, it really should only one you cannot think of, there is no online buy. There are ordinary online shopping sites, such as Taobao, Amazon, VANC, VIP SHOP, also have a group buying website, such as Meituan net, nuomi net, lashou net. No matter which site consumption, consumers are eliminating the rush from home to the business journey, avoiding the time and effort to view the merchandise, services and cost-effective one by one, you can arbitrarily favorite similar products, services on a computer screen in a detailed comparison. These are for consumers, not only save time, but also reduce the road rush, do not have to carry large cash out for fear of robbery; after shopping, courier delivery, but also to avoid the hard work of large bags carry home. Although not able to face inspection, but with the development of online shopping, almost all online stores are not satisfied with the promise to be returned at any time, and even many online stores also promised as long as consumers are not satisfied, even the return shipping back and forth without the consumer commitment, this allows consumers without any worries, to a large extent relieved the consumer's worries.

As mentioned above, online shopping can also bring great economic benefits to consumers. The same goods or services, online shopping can save the cost of different levels, up to more than half the cost of more than physical stores. This is also the main reason for many consumers to abandon the online sales of physical stores for sale after price rises in the past two years. There was a burst of customers because only too much in the store fitting, to determine the appropriate number of yards after leaving the product code to find the same code number back to the same product line, resulting in some businesses to be vigilant to prohibit the fitting of the customers of their goods coding camera, while some large chain of businesses (such as Suning Appliance) simply implement the same price online and offline. With the online store on the commitment to return further increased, the scale of network consumption is geometrically double the trend is not hard to understand.

3. INTERNET SHOPPING CONSUMERS FACE THE LEGAL RISK ANALYSIS

Although online consumers have unparalleled advantages for businesses and
consumers, but due to the virtual nature of the network, the risks and disputes arising from online shopping are also unavoidable topics. According to the complaints and complaints handled by Beijing Municipal Administration for Industry and Commerce and consumer associations in 2012, the number of complaints and complaints involving online shopping ranked the first place, surpassing that of the city's service complaints [3]. Thinly divided, the risk of online shopping is mainly in the following areas:

(1) The risk faced by consumers' personal rights

Any shopping site will require consumers to register personal information. Some websites will exceed the scope of the necessary collection of personal information, and some websites will use cookies to automatically record consumer browsing and shopping history, which of course will also record the user name, login password, bank card account, payment platform account, payment password, contact Way, address and other information. For these statutory privacy information, do not rule out that some shopping site operators, product service providers, payment platforms, logistics companies and their employees will be malicious use, including violation of the agreement to use consumer personal information, the consumer's personal information for sale without profit, Malicious violation of consumer privacy, etc. [4], eventually causing consumers unnecessary life problems and even the loss of personal and property.

In addition to possible leakage of private information, consumers may also face other personal risk. For example, almost all shopping sites have evaluation capabilities, consumers shopping based on their own experience of the purchase of goods and services even include the goods logistics delivery staff can give a score evaluation. In the past, there were reports that consumers were abusively repayed by commodity service providers after they made travel reports. Some consumers even received articles with the curse meaning sent by distributors, which intruded consumers' dignity. In addition, there are also reports that some single women living because of regular online shopping, but also in the contact address not only wrote the streets, residential and other information, but also left a number, floor or room number and other details, resulting in some courier see fortune, Press the map to find the shopper's place of residence to steal robbery crime, which constitutes a serious threat to the lives of consumers.

(2) The risk of consumer contract rights

Because of the hypothesized nature of the network, consumers can only compare the information and performance information of the commodity service before they decide to make online shopping, so they can't experience in person. On the network, dragons and fishes jumbled together businesses in the total uneven in quality, some malevolent dishonest intent, unwilling to bear the liability for breach of shoddy businesses. In this way, if the consumer finds that the goods or services are not satisfied and the business is deliberately pushing off the responsibility, the consumer's contract rights are easily infringed. Taobao's many online businesses promise no reason to return, the actual operation encountered consumers want to return, but always excuses, refused to fulfill their promise to return, or after the praise back now
to consumers will not give praise back now, but also with the fake praise enticed more consumers to the consumer. Improper selling at low prices, misleading false propaganda, improper reward sales, counterfeiting, and infringement of business secrets, commercial bribery and commercial slander will all happen in the form of online group buying [5]. All of these actions will damage the consumer's contractual rights and interests.

The newly revised "consumer protection law" although the provisions of the twenty-fifth operators using the Internet, television, telephone, mail order sales of goods, consumers have the right to return within seven days from the date of receipt of goods, and without justification, many operators also promised to "keep back" and "seven days back" wait, but when consumers and operators communicate returned when often encounter prevarication, even if it can be returned, considering the benefits of time cost, return costs, many consumers of trouble, eventually chose appeasement.

(3) The risks faced by consumers' property rights

Online shopping is inseparable from the online payment platform. At present, various kinds of payment instruments have a great variety of forms. In addition to online banking, there are payment platforms such as Alipay, TenPay, and micro-payment. In the past year, there have been such platforms as Yu Ebao, which not only has the payment function but also developed savings, Investment function. At the end of 2013, after the launch of Yu Ebao, the company made high returns to attract consumers to deposit more funds in the Yu Ebao account, claiming to save the more and earn more. In a short period of time, Yu Ebao attracted a large number of young people to bank savings transferred to the Yu Ebao account, once caused bank funds tight. However, after all, Yu Ebao is not a bank. To consumers, the short-term high interest return obviously should pay more attention to the latter than long-term fund safety. And how to better protect the safety of consumer funds, but also Yu Ebao and Alipay and other network financial platform operators to consider.

In addition, consumer property safety and consumer privacy are closely related. Shopping site in order to attract customers, in the login account, payment procedures and other sectors have automatic memory function, consumers do not need to enter the login account, Alipay account, online banking card number, contact address, the website will be automatically after the consumer selects the goods and services This information is displayed, which not only facilitates the user login payment but also reduces the inconvenience of repeatedly inputting the user name, the account number, the card number and the password in the login payment, but there is also a huge security risk. Once the consumer loses the computer, the electronic terminal of the mobile phone Equipment, shopping sites stored on the consumer's personal information and may be easy to be informed by lawless elements, or hackers lead to the disclosure of consumer network registration information, resulting in consumer funds are facing great security risks to consumers causing huge economic losses.

(4) The risk of consumer litigation right

Judging from the current legal system in our country, consumers in online shopping seem to have corresponding ways of safeguarding their rights in the face of personal
rights, contract rights and property rights risks. When personal information is disclosed, or contractual rights are violated, consumers may, in accordance with the General Provisions of the Civil Law, the Contract Law and the rights provided for in the Civil Procedure Law, violate the safety of personal and property rights, Procedural rights in accordance with the provisions of the Criminal Procedure Law. Substantive law also seems to have detailed provisions on the various powers of consumers.

But in fact, online shopping consumers, the road to safeguarding rights is extremely difficult. Among these factors include: 1) the contract the amount of the small, it is not worth spending a lot of time and money to safeguard their rights. Most online shopping is dozens of hundreds of dollars of goods and services, what is the real dispute, consumers failed to negotiate with the provider, the average person is considered bad luck, few people will for tens of hundreds of dollars time-consuming and labor-intensive rights. It is consumers who are afraid of trouble attitude, which in turn also contributed to a number of bad business illegal business practices; 2) consultations, complaints, the judicial process is complicated. Appear online shopping disputes, consumers will first negotiate with the goods service providers, while some providers to consumer issues put aside or even shirk responsibility. Faced with such a situation, consumers can make a very limited choice. Complaints to website operators, website operators generally promise to warn product service providers will seriously punish providers, but the fictitiousness of the network and the profitability of the website determine that it is very difficult for website operators to severely sanction the breach of the commodity service providers. There are also cross-regional issues for complaining to or handling the judicial channels, Embarrassment of the details of the goods and service providers, Consumers Association or the judiciary will be very difficult to really intervene; even if consumers know the specifics of commodity service providers, there is an embarrassment that the legal fees that the plaintiffs should pre-pay to the court may exceed the target amount itself and ultimately outweigh the benefits even if the case is won.

4. ONLINE SHOPPING CONSUMER PROTECTION OF LEGAL ANALYSIS

Article 14 of the "Law on Protection of Consumer Rights and Interests" newly revised in 2014 stipulates that consumers "shall have the right to personal information according to law" and Article 22 of the Law stipulates that "the provision of goods or services by an operator shall be in accordance with the relevant provisions of the State Provisions or business practices to consumers invoices and other purchase vouchers or service receipts; consumers ask for vouchers and other purchase vouchers or service documents, the operator must issue a "Article 28" the use of the Internet, television, telephone, Mail order and other means to provide goods or services operators should provide consumers with business address, contact information "and other information; Article 55 provides that" operators to provide goods or services fraud ", to assume punitive damages Responsibility; Article 56 stipulates that the existence of business operators to provide unqualified goods, false propaganda, not according to the law return, violation of consumer personal information and other
illegal situations, will face warnings, fines, revocation of business license and other administrative penalties. Although these new regulations adapt to the development of the network era, it has increased the protection of online shopping consumers, but it is too general. As mentioned earlier, the network's virtual nature and rights of the difficult, coupled with many online shop operators as a natural person limited liability capacity, making it difficult for consumers to make full use of these legal provisions to safeguard their rights, the corresponding legal responsibility to shop operators would be very difficult to implement, it is difficult to have sanctions.

An online shopping service provider is difficult to assume responsibility, and then the website operators can assume the responsibility of consumers? Some scholars believe that the legal status of online shopping platform operators is rather special, it is not clear with the online shop operators, consumers, and the legal relationship between the legal natures, is neither an agency relationship nor an intermediary relationship, nor is it disciplines relations [6]. The newly revised Article 44 Paragraph 2 of the Consumer Protection Law stipulates that only "Internet exchange platform providers knowingly or should not know that sellers or service providers use their platforms to infringe upon the legitimate rights and interests of consumers and have not taken the necessary measures, according to the law with the seller or service provider jointly and severally liable." To prove the joint responsibility of the network platform, it is impossible for consumers to complete the task. Taobao and other online shopping platform has been successful, is that it can earn tens of thousands of shop operators service charges, but almost does not assume any responsibility. Therefore, in order to effectively protect the rights and interests of consumers, it is suggested that this provision be amended as follows: When an online product service provider signs a cooperation agreement with a network platform, it shall pay a certain amount of default bond to the network platform. The amount of the bond shall be negotiated by both parties and the network platform after receiving the deposit should come up with a certain percentage of the goods operated by the shop to commercial insurance companies insured. In any case, the breach of contract breaches the rights and interests of consumers, the network platform and the commodity service provider shall bear joint and several liability with the consumers, and the liability may be settled by the commercial insurance company. In this way, it can not only supervise and urge the network platform to strengthen the daily regulatory power of the commodity service providers, reduce the chances of fake and inferior commodities using the network platform to flow to the market, and truly bring the rights and interests of consumers into reality.

In view of the problem of high rights and interests in the low online shopping market, some scholars suggested the establishment of small-sum litigation and group litigation system [7]. The newly revised Article 47 of the Consumer Protection Law stipulates that "acts of infringement on the legitimate rights and interests of many consumers, consumer associations in China, and consumer associations established in provinces, autonomous regions and municipalities directly under the Central Government may institute legal proceedings in people's courts ". This seemingly resolved the provisions of the lawsuit and group litigation, but in fact still difficult to
maintain the rights and interests of online shopping consumers. First of all online shopping consumers living scattered, the amount of low, consumers do not want time-consuming, then how many consumer complaints to promote consumer association litigation? Is it necessary to count the number of consumer complaints in our province? Consumers Association where the court, the network platform registered the court, the shop operator where the court has jurisdiction? If the provisions of the joint and several liability of the network platform, only in accordance with the normal "plaintiff on the defendant," the principle of consumer or consumer association to the network platform to register the court can.

In addition to improving laws and regulations, it is also necessary to strengthen the role of trade associations in safeguarding the rights and interests of consumers of online shopping. The trade associations include two types: the network platform association and the online shop operator association. It is also of great benefit to the healthy development of online shopping that the industry associations formulate the articles of association that regulate the membership of the association and enforce permanent restrictions on the membership of those who violate the laws and regulations to enhance the awareness of conducting online shopping websites and online shop integrity management and law-abiding operations.

5. REFERENCES