Initial Analysis on the Legal Protection of Consumers' Rights and Interests in Network Transaction

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Abstract

With the development of network technology and information technology, electronic commerce as a new business model with its new trading ideas. In changing the traditional business structure, but also gradually changing people's shopping patterns and consumption patterns. Online shopping has become the preferred way of shopping. Changes in consumption patterns will inevitably lead to new problems in the process of consumption, and the development speed of the problem in sync with the development speed of network economy, as far as the renewal speed of laws and regulations is concerned, this asymmetric development is bound to bring great inconvenience to the consumer rights in network transactions. In this paper, from the angle of legal protection, the protection of consumer rights and interests in network transactions are expounded, analysis of the current situation and reasons of the consumers' rights and interests are infringed upon in the network transaction, learn from the experience of foreign consumer rights and interests protection. In order to put forward effective suggestions on the system construction of the protection of consumer rights and interests.

Keywords: network transaction; consumer's rights and interests; legal protection

1. Introduction

The development of technology has brought about a change in the way of life, and the rise of online shopping has changed the traditional business structure, but also brought a lot of new problems. The rapid development of network technology and information technology making the protection of consumer rights and interests more and more difficult. The timeliness and convenience of Internet trade enlarge the difficulty of the consumer rights and interests protection, there are three reasons for it: First, consumer rights protection awareness enhancement. The promotion of the overall quality of the national, the effectiveness of the law popularization, and the speed and breadth of information dissemination in the era of Multimedia are changing rapidly, under such premise, the enhancement of public rights consciousness make the increase of the safeguard legal rights become inevitable. Second, the commodity market boom brought about by the economic prosperity. The extremely rich variety of goods and the asymmetric development of the lack of supervision make the Infringement events occurred frequently. Third, the effect of legal protection is not to be played to the maximum extent, so the power and responsibility is not clear cause consumer rights difficult. The rapidity of online shopping and the online shopping rights is difficult to obtain evidence, the online shopping rights forensics cycle is long, and so on, have been in

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sharp contrast, on the way of tort and protection, there are some commonness between physical store and online store, but the difference is more. In aspect of online shopping consumer rights protection, no matter cognitive level or Legal system construction and the implementation level of the legal system both have a long way to go, Safeguard the personal rights and interests of consumers by legal weapon Will become an inevitable choice for more and more consumers.

2. Current Situation of the Protection of Consumers' Rights and Interests in the Network Transaction

Current situation of the protection of consumers’ rights and interests in the network transaction, begin with the way to infringe upon the rights and interests of consumers in online shopping. In short, the infringement of consumer rights and interests in network transactions is mainly about: such as the consumers right to information, security, fair deals, claims are infringed upon; the reason for the loss of consumer rights and interests protection are numerous, among them, the lack of integrity in virtual transactions, the rights channel is not smooth and the high cost of rights are most.

2.1. Lack of Integrity in the Network Transaction

The characteristics of online shopping determines consumers can only through the text description, picture description and other forms to achieve a preliminary understanding of the commodity, lack of awareness of the senses and lack of direct experience directly lead to the lack of accurate judgment of the goods. And businesses to achieve the purpose of promotion of commodity description exaggerate or vague, ambiguous, businesses occupy the absolute advantage of information resources, the direct purpose of this approach is the formation of misleading consumers, even with false advertisements, or ads with actual inconsistent goods by fraud, which constitute the violation of the consumer's right to know. Conversely, consumers in the purchase to the commodity, by means of fictitious or man-made obstacles were false rights maintenance, the real needs of safeguarding consumer rights more difficult. And on the one hand, in the trade of the network information security is extremely important, in technology for the benefit of mankind, at the same time, also will have concurrent technical means of fraud information, information harassment events occurred in and frequency linearly rising trend. Consumer information leakage is due to computer viruses, hackers, internal staff. Among them, the consequences caused by the internal staff and the impact is particularly serious. Businesses to sell consumer information, in the acquisition of illegal interests at the same time against the consumer's right to information security. However, such violations will generally be confusing to consumers, such as information harassment, and even to the consumer to bear the huge economic losses.

Consumers should pay attention to Information security, and actively take effective measures to safeguard the rights. The lack of good faith in the network transaction is also reflected in the conclusion of the transaction contract. In online shopping, the contract which consumers and businesses signed is mainly electronic contracts, there are two main types: click on the contract and split the license contract. When the two sides to reach an agreement, consumers can only choice to accept or reject, did not modify the
opportunity. As a result, the network trading loss of fairness, consumer's right to fair trade is damaged. In the end, the consumers right to claims in the network transaction is infringed. After the completion of network transaction, when the problem appears and it is very difficult to find the infringing party, or is not easy to obtain evidence of infringement, so that responsibilities are difficult to be determined and cannot obtain compensation. That is to say, trading network to consumers bring great convenience, at the same time, region spanning enable the distance of maintain legal rights increase.

2.2. High Cost of Rights

This is mainly reflected in the rights of small value of goods, consuming a large amount of manpower, material resources, and hard evidence eventually get the protection of rights and interests. And the time and labor costs are much higher than the compensation, the universality of this phenomenon is the main reason for the loss of consumer rights in network transactions. Based on this reason, businesses not only did not reflect the mistake itself, but repeated infringement, which has a great relationship with the Effective implementation of consumer protection law, When consumers in the rights act, division of powers and responsibilities are not clear, which increase the cost of rights.

3. The Comparison of New and Old Consumer Rights Protection Law

The rise of the network economy makes the protection of the rights and interests of the consumers in the network transactions receive general concern, the position of network transactions in commodity trading also determines the consumer rights and interests protection law should make specific provisions for it. This paper summarizes the changes in the consumer rights protection of the new and old consumer rights protection law in the network transactions, and the content of the new consumer rights protection law which in favor of the protection of consumer rights and interests in network transactions.

To analysis the specific terms of the old and new consumer rights protection law, the conclusions can be obtained: the difference between the old and new consumer rights protection law embodies in the change of the content of consumer rights protection in the trade of the network, prominently reflected in the strengthen the protection of personal information, strengthen the authenticity of the release of goods information, returned goods time specification and severe punishment measures, and so on.

3.1. Strengthen the Protection of Personal Information

Network transactions sometimes involving customer telephone, ID card information, bank card information, which trading patterns do not involved, serious consequences of personal information leakage caused by the network shopping has occurred now and then, and the loss caused by the information leakage is difficult to recover, assertion of rights is difficult. Based on this situation, the new consumer rights protection act of fiftieth expressly provides: Operators against the dignity of consumers, the consumers' personal freedom or according to the legal the right of protect the personal information of consumers, should be to stop the infringement, rehabilitation, eliminate the influence and apology, and compensate for the
losses. This is in line with the Forty-third article of the old consumer rights protection act, which increases the content of consumer's personal information protection. In addition, the fourteenth article of the old consumer rights protection law after modification, Its content is the consumer in the purchase, use of goods and services, enjoy the right of protect personal information in accordance with the law. Added content about the protection of personal information. Twenty-ninth article also expressly provides, merchants collect consumer information to follow the legal, legitimate and necessary principles, and to express the use of consumer information purposes, methods and scope, and the information is collected through the consumer consent. At the same time provides that: operators and their staff to collect personal information on consumers must be strictly confidential and shall not disclose, sell or illegally provide to others. Operators should take technical measures and other necessary measures to ensure information security and prevent leakage of personal information of consumers, loss. In the event of or may occur information leakage, loss of the situation, it should take immediate remedial measures. Without the consent or request of the consumer, or the consumer expressly rejected, the operator not be allowed to send commercial information to the consumer. The progress of science and technology makes the criminal technology and means are constantly updated, by name, phone number, bank card number and other information the mobile phone card, bank card can be forged out, resulting in consumers with serious economic losses, but tracing to its source, the network consumer personal information protection is blind spot is weakness must be efforts to strengthen the protection of the consumer shopping information, increase the penalties for violations can fundamentally protect consumer's legitimate rights and interests.

3.2 Strengthen the Authenticity of the Release of Goods Information

In the trade of the network, consumers can not for goods have intuitive understanding, but through the description of the text and picture description to understand the goods. Business promotion in a large extent can be induced and mislead the consumer behavior, coupled with businesses adopt employment false comment message forgery and other bad behavior, deceived consumers, caused by the infringement of the rights and interests of consumers. It can be said that there are two factors that consumers decide to buy goods in online transactions, one is advertising; the other is the review of information. Twentieth article of the new consumer rights protection act provides, operators to consumers provide the relevant goods or services, quality, performance, usage, the term of validity of information should be true and comprehensive shall not make false or misleading propaganda. The revised clause is to improve the nineteenth article of the old consumer protection law.

3.3. Returned Goods Time Specification

The maximum resistance of the virtual nature of the network transaction to the consumer buying behavior is, there are many problems due to the failure of the goods after receiving the goods. For example, the figure does not match, the quality of the problem, the choice of errors, etc. Once the problem appears, relates to the return will directly affect the consumer's shopping experience and trust. Actually this kind of problem in the real economy still exists,
returned goods difficult problem has not been effectively resolved; one is consumer awareness of the rights of the poor, second, the absence of management of the supervision department. Trading network in a large extent enlarged trading volume of goods, the probability of the occurrence of the problem also increases, and consumer rights awareness continues to improve, network transactions on the returned goods rights issues became the focus. Twenty-fourth article of the new consumer rights protection act provides: operators to provide goods or services that do not conform to the quality requirements, consumers can from received goods, return within seven days, does not meet the statutory conditions for termination of the contract, you can require the operator to perform the replacement, repair, and other obligations. Return, replacement, repair, the operator shall bear the necessary expenses such as transportation. This one is consolidation in the original consumer rights and Interests Protection Law Article 23 and of Article 45, has been clear about the seven day return, also makes it clear that the returns of the expense issue. The introduction of this provision, making the difference between the network and the real economy of the economy to narrow, consumers can rest assured that shopping on the network.

3.4 Severe Punishment Measures

In the protection law of the old consumer rights, the lack of the punishment of the infringement behavior, low cost of illegal is also an important reason for repeated violations of the law. Forty-ninth article of the old consumer protection law provides, the penalties for consumer fraud is consumers to purchase goods or receive service charges doubled, and in the new consumer rights protection law, segmentation and improvement of this part of the content. Increase penalties. Specific performance is: Operators to provide goods or services fraud, Should be in accordance with the requirements of consumers to increase compensation for their losses, the compensation which increased is consumers purchase price of goods or received three times of the cost of service; The amount of compensation is less than five hundred yuan, is five hundred yuan. The operator knows commodity or service deficiencies, Still offer to consumers, causing consumers or other victims to die or serious damage to health, the victim shall have the right to require the operator in accordance with the forty-ninth article, fifty-first article and other laws of this law regulations compensates for loss, and have the right to request the loss suffered less than two times the punitive damages. Punishment is a means not an purpose, effective measures of punishment can make businesses improve their own sales behavior, low cost of illegal enable businesses have great luck, and measure the compensation expenses and benefits in, the wake of a measure of the proportion of revenue and expenditure of compensation, the businesses will make the choice between continuing violations of law and compliance with the law. In fact, the main reason that Infringement and illegal behaviors in the network transaction despite repeated prohibitions is, low cost and high income inequality, which make the business without fear of punishment, and even some businesses make illegal cost as part of its cost accounting. To eliminate the root causes of infringement, there are three methods. First, consumers to strengthen their awareness of rights. A lot of consumers because of the amount of small or afraid of trouble and other comprehensive reasons, the infringement of the business does not stop, this is a disguised
form of illegal businesses to actively illegal business. Second, unimpeded rights channels. From the real economy to the network economy, rights difficult always exist. The power and responsibility is not clear, the procedure is tedious, the work efficiency is low and other factors of authority department make consumers give up their rights. Third, the illegal cost is too low, the punishment is not enough. For businesses, in addition to their own goodwill on a certain impact, the impact on its economic benefits is minimal, the common practice is after the impairment of goodwill to a certain extent, Make only superficial changes again, this is also a direct consequence of regulation, the lag of the construction of the credit system makes the illegal businesses have been engaged in business activities in different forms, so that the infringement can not be fundamentally eliminated.

4. Conclusion

In summary, the consumer rights protection law should follow the pace of development of the times. Under different social and economic conditions to make rapid changes in the adaptability, make the consumer have the law as the basis, law enforcement departments in strict accordance with the provisions of the law to protect the rights and interests of consumers, Law enforcement departments must strictly enforce the law. Network trading is a kind of business model that is bound to become the norm in the future. In view of this pattern, to safeguard consumer rights, we should improve the quality of the law-executor, enhance the awareness of the rights of consumers, more ways and means, strictly and severely crack down on violations of network transaction, to make the consumer rights and interests in the network transaction to be the fundamental guarantee, to make contributions to the construction of healthy and harmonious social economic order.

References


