

# Research on the Balance between Consumer Protection Law and Market Freedom in the Era of E-Commerce

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## ABSTRACT

With the rapid development of e-commerce, consumers are facing many risks and challenges while enjoying convenient transactions. This paper first reviews the related concepts of e-commerce and market freedom, and analyzes the mutual influence and conflict between them in practical application. Secondly, it discusses how to balance consumer protection and market freedom through legal means in specific issues such as telecommunications tariffs and certification of violations. Finally, this paper puts forward some policy suggestions, such as improving the system construction, improving the social environment and strengthening the data protection, in order to promote the perfection of the legal system and the stability of the market order in the era of e-commerce.

## KEYWORDS

Consumer Protection Law; Market Freedom; Era of E-commerce; Balance.

## 1. INTRODUCTION

Today, with the rapid development of information and networking, e-commerce, as a new business model, has a profound impact on the global economic structure and consumer behavior. With the continuous innovation of Internet technology, e-commerce not only provides convenient transactions, but also brings many new problems and challenges. Especially between consumer protection and market freedom, how to find a proper balance has become a key issue for the legal profession and policy makers to solve urgently. Consumers enjoy a wider choice and convenience on the e-commerce platform, but they also face risks such as privacy disclosure, false publicity and commodity quality problems, which not only damage the legitimate rights and interests of consumers, but also affect the fair competition in the market [1].

On the other hand, as the core value of modern market economy, market freedom requires market participants to make decisions independently and trade freely in a fair environment. However, excessive market freedom may lead to the breeding of some illegal acts, damage the interests of consumers, and even destroy the healthy order of the market. Therefore, how to build an effective consumer protection mechanism based on protecting the freedom of the market is an important issue in the construction of the rule of law in contemporary e-commerce.

The purpose of this paper is to analyze the relationship between consumer protection law and market freedom in the era of e-commerce, and to explore how to effectively protect consumer's rights and interests in this emerging field without harming the freedom of market competition. Through the study of relevant laws, policies and practical cases, this paper puts forward corresponding suggestions for legal improvement, and strives to provide theoretical basis and practical guidance for the construction of legal system in the era of e-commerce.

## **2. CONSUMER PROTECTION LAW AND MARKET FREEDOM IN THE ERA OF ELECTRONIC COMMERCE**

### **2.1. E-commerce**

At present, there is no unified and generally accepted definition of "Electronic Commerce" in the world, and different international organizations and countries have different descriptions of it. It is defined by the World Alliance for Technical Information and Services as any commercial transaction that provides goods, services or information by digital means, or any digital intermediary function that helps to implement the above transaction. The experts and representatives attending the conference elaborated on electronic commerce from different angles: the so-called electronic commerce refers to the realization of the electronation of the entire trade activity [2]. In terms of coverage, it can be defined as any form of commercial transaction conducted by the parties to the transaction by electronic means rather than by face-to-face exchange or direct interview. E-commerce mainly involves three aspects: information, electronic data interchange and electronic funds transfer. Some of the above definitions are high generalizations of e-commerce activities, while others only define some characteristics of e-commerce. To sum up, e-commerce is to replace the storage, transmission, statistics and release of paper information carriers in the traditional transaction process with digital communication networks and computer devices by means of modern information technology, so as to realize the whole process of paperless business and service transactions and transaction management activities.

### **2.2. Market Freedom**

The so-called market freedom means that all participants in the market, including producers and consumers, can make economic decisions freely and choose economic behavior freely without coercion. There must be two points need to be clear: first, there are only two types of participants in the market, namely, producers and consumers; Secondly, all market participants have dual identities, both producers and consumers. Therefore, the main participants in the market can be individuals, enterprises, or non-governmental social organizations, while the government can not be regarded as market participants. At present, there is a popular sophistry theory in China's economic circles, that is, the government is also a participant in the market, because it produces the system and policy, and consumes the labor products of the society. If this view prevails, government intervention in the market will be all-pervasive, and the real sense of the market will cease to exist [3]. Firstly, the formulation of system and policy can not be regarded as the production activities of the market. The production activities of the market refer to the production of material and spiritual products through the labor of the main body, while the system and policy are only the objectification of the behavior habits of the market participants. Secondly, the government is not a real consumer. The reason why consumers in the market want to consume is that consumption can enable consumers to obtain production capacity, while the government is not a producer at all, let alone obtain production capacity through consumption.

## **3. BALANCE BETWEEN CONSUMER PROTECTION LAW AND MARKET FREEDOM IN THE ERA OF E-COMMERCE**

### **3.1. The Issue of Telecommunication Tariff**

Economic law should take the protection of consumers' rights and interests as the legislative purpose, which is also the embodiment of the values of the overall interests of society based on economic law. Consumers are in the terminal and central position of market economic activities, and the orderly operation of the whole market economy cannot be separated from the necessary link of consumption.

Consumers are the primary driving force to promote social and economic development. In a general sense, all members of society are consumers, and the degree of realization of consumer rights can well reflect the order of market competition and the level of social development. Therefore, to safeguard the overall interests of society, economic law should take the protection of the legitimate rights and interests of consumers as the value basis, and to protect the rights and interests of the vast majority of consumers is to realize the overall interests of society. Obviously, this kind of social overall interest is not the national interest, but the state safeguards the legitimate rights and interests of consumers under the legal framework. Therefore, in many cases, due to the lack of government supervision and the consideration of their own interests, the interests of consumers are harmed, which is a major problem that Chinese society is trying to solve today. Its root is that the government plays an extremely important role in market supervision. Consumers in the position of vulnerable groups need government supervision if they want to protect their own interests and form an orderly competition order. Therefore, based on the discussion of the legislative purpose of economic law, the reflection of government supervision is the best protection of consumer's rights and interests. We can find that many public utilities in China today, although they appear to be separated from the government and completely enterprise-oriented, the government still enjoy their own interests [4]. When public utilities are monopolized, the lack of government supervision and the confusion of interests are the biggest problems that damage the legitimate rights and interests of consumers.

### **3.2. Certification in Violation of Regulations**

Government supervision is indispensable to the healthy and orderly operation of the market economy. If the lack of supervision will make the competition order chaotic, unfair competition and monopoly behavior that damage the same kind of operators will appear in large numbers, which will ultimately damage the legitimate rights and interests of consumers. The maintenance of consumers' interests should have become the value goal of the government's supervision of the market. The protection of consumers should be the primary objective of the value basis of the government's regulatory role and the balance of interests. The National Dental Prevention Team said that the reason why they certified the products of enterprises without approval was to recommend good oral care products to help Chinese people better carry out oral health care. However, the reporter's investigation found that the experiments carried out lacked scientific and rigorous design, and the certification conclusions were exaggerated. According to an enterprise, if no money is given, the dental prevention team will not give certification. How many sponsorship fees did the National Dental Prevention Team collect from the certified enterprises and how did the money be spent? The head of the National Dental Prevention Team once said that the funds had been audited and there was a special audit report. However, the National Dental Prevention Team has not released any information about the audit to the public, and it is still a mystery who conducted the audit and what the results were. Therefore, the illegal situation of such institutions has existed for more than 10 years, which has a profound impact on consumer psychology, and consumers constantly question the regulatory role of administrative organs, which is thought-provoking.

## **4. SUGGESTIONS FOR BALANCE BETWEEN CONSUMER PROTECTION LAW AND MARKET FREEDOM IN THE ERA OF E-COMMERCE**

The ultimate state of economic law to realize its value goal is the pursuit of freedom, which is the real transcendence of the existing value of freedom. However, the realization of freedom can not be separated from the effective supervision of the government. In the modern market economy environment, the government should protect the legitimate rights and interests of consumers by protecting free competition under the benign market supervision. Considering the value of freedom contained in economic law itself helps us to explore the real return of the state of free competition.

The realization of the state of free competition in the market is not the pursuit of absolute freedom, nor the freedom of individuals to maximize their own interests, but to define the scope and limits of freedom from the perspective of safeguarding the rights and interests of consumers [5].

#### **4.1. Strengthen the System Construction**

The real return of market freedom first comes from the thinking of the system. Earlier, we have talked about the lack of government supervision, which is due to the imperfection of existing laws and regulations, the conflict between different laws and regulations and the need for coordination. In addition, the realization of the right of action in our country is too difficult and the threshold is too high, which makes it difficult for consumers to win in the existing litigation system, for example, some judges believe that the actor of "knowing fake and buying fake" is not a consumer, and when disputes occur, they are not given legal consumer status. The provisions of punitive damages are general and difficult to grasp the standard. At the same time, it can not effectively play a punitive role for some small claims. Of course, the biggest problem in China's current consumer rights protection is that there is no public interest litigation system, when the lack of administrative supervision, when punitive damages can not punish illegal operators and producers well, some commercial individuals will damage the legitimate rights and interests of consumers in the process of pursuing the maximization of their own interests. Therefore, the effective establishment of public interest litigation is to achieve the purpose of safeguarding consumers' rights and interests outside government supervision.

#### **4.2. Improve the Social Environment**

In addition to the guarantee of the basic system design, market freedom also comes from the invisible construction of the market environment, which is also the result of the joint efforts of the members of society. For operators and producers, they should strive to win the trust of consumers with their own quality and service within the scope of moral constraints to realize the real fair competition in the market. The decision of "survival of the fittest" should be given to consumers. At the same time, social credit mechanism should be widely established, and social credit should become the only yardstick to evaluate competitors. In addition, the appearance of the free state of the market in the market order is indispensable to the supervision of the media. The correct and appropriate supervision of the media is an effective guarantee for the realization of consumers' free choice. The disclosure of bad goods by the media really safeguards the legitimate rights and interests of consumers, so that competitors dare not openly violate the traditional business ethics, and when they infringe upon their rights, they will pay a heavy price.

#### **4.3. Intensify Data Protection**

The development of e-commerce depends on users' trust in the security of personal data. Especially, at present, there is no sufficient legal protection for the right to privacy of citizens in our country, and the protection measures for the right to privacy on the Internet are seriously lagging behind, so we must first emphasize the protection of the right to privacy on the Internet. As far as legislation is concerned, we can draw reference from the practices of other countries and international organizations to establish the principle of personal data protection. For example, the principle of consent: personal data can only be collected with the consent of the person concerned in a legal and fair manner on an appropriate occasion; the principle of relevant data content: the data collected should be consistent with the purpose of data use, and the accuracy and integrity of the data should be protected. The principle of notification: the purpose of collecting data must be made public or the object of collection must be informed; the principle of safety protection: the obligation to take reasonable safety protection measures for the collected data; the principle of restriction of use: the purpose of use other than purpose of use is not allowed except with the consent of the person;

Principle of individual participation: Individuals have the right to confirm with the data manager whether they have saved their own data, understand the content of the data, and have the right to request deletion and correction.

## 5. CONCLUSION

With the rapid development of e-commerce, the balance between consumer protection and market freedom has become increasingly prominent. This paper discusses how to protect the rights and interests of consumers while maintaining the freedom of market competition, and analyzes the main legal challenges in the e-commerce environment. Through the reflection of the current legal system, this paper puts forward some suggestions on strengthening the system construction, perfecting the supervision mechanism, and strengthening the data protection, etc. In the future, the law should pay more attention to balancing consumer rights and market freedom, and promote the continuous improvement of the law in the e-commerce environment to promote the healthy development of the market and the sustainable growth of the economy.

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