

# ***Challenges and Countermeasures for the Protection of Online Consumer Rights in the Digital Economy***

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**Abstract:** Accompanied by the booming development of new technologies such as the Internet, artificial intelligence and cloud computing, the digital economy has burst into a powerful vitality and become an important feature of the new era. However, due to the virtual nature, complexity, and monopoly characteristics of the digital economy, the damage caused to consumers. Such as the digital economy in the context of the prevalence of big data to kill familiarization and other acts of infringement of consumers' personal information, the right to free choice, the right to fair trade and other rights and interests, and consumer rights to defend the difficulty of proof of rights to defend the cost is too high. This paper analyses in depth the current situation of consumer rights and interests protection of the digital economy, reveals the problems and challenges brought by the digital economy to the protection of consumer rights and interests and puts forward corresponding countermeasures and recommendations in a targeted manner, with a view to promoting the high-quality development of the digital economy.

**Keywords:** digital economy, consumer rights, e-commerce, economic law

## **1. Introduction**

At present, the concept of digital economy has not yet formed a unified and accurate definition, but with the continuous innovation and application of technologies such as big data, blockchain, algorithms and other technologies, economic and social development has entered the digital era. In the field of economic law, "digital economy economic law" has become a new research hot spot [1]. The legal community is concerned about the changes brought by the digital economy to consumer relations and the challenges to the relevant legal system. This paper analyses in depth the current situation of consumer rights and interests protection in the context of the digital economy, reveals the new problems and challenges brought by the digital economy to the protection of consumer rights and puts forward corresponding countermeasures and recommendations, with a view to promoting the high-quality development of the digital economy.

## **2. Characteristics of Online Consumer Rights Protection in the Digital Economy**

### **2.1. More Subjects in Consumption Process and the Open Consumption Space**

Brick-and-mortar transaction mode is only the consumer and the operator of the two subjects, but the network consumption involves not only the buyer and seller, but also payment platforms, network operators, logistics and other third-party subjects. Under the new space-time business situation, product transactions are not subject to time and space limitations and rational allocation of resources [2]. Network consumption is completely free of time and space constraints, the time cost is smaller, but the space is bigger. Therefore, the network consumption transaction subject is more complex and consumption space is more open, which means that the protection of legitimate rights and interests of consumers will also become complex, but also very important.

### **2.2. Virtual Nature of Online Consumption**

In the process of online consumption, consumers mainly understand the products and services through the text, pictures and other online platform information released by the operator, and then decide whether to consume. In this process consumers are usually in a passive state, although there is a certain degree of selectivity, but the authenticity of the information is difficult to guarantee, which gives the operator, who originally has the initiative to convey the information, a greater advantage. If the information disseminated by the operator is false, the legitimate rights and interests of consumers will be violated. Cao and Zeng believe that operators will increase their advantages and deceive consumers through improper means such as swiping orders, positive feedback and cash back [3]. Moreover, consumption is carried out in the virtual network environment, and it is difficult for consumers to effectively defend their legitimate rights and interests within the shortest time specified. Hu and Zhou proposed that in the Internet financial consumption, there is no physical evidence, a lot of evidence is in electronic form, the operator is more likely to tamper with or destroy, thus increasing the difficulty for consumers to prove, resulting in consumer rights and interests once infringed upon, evidence collection and rights will be very difficult [4].

### **2.3. Monopolistic Behaviour of Operators**

Under the digital economy, it is also easier for operators to form collusion among themselves to harm consumers' interests, and the forms in which operators infringe on consumers' rights and interests have become more complex. Ideally, competition in the digital market is about many operators trying their best to optimize their products and services in order to stand out from the competition. However, when data becomes a key element and resource of competition, companies with data advantages can look beyond their many rivals in the relevant industries and even have an impact beyond the economic sphere.

## **3. Challenges of Online Consumer Rights Protection in Digital Economy**

### **3.1. Near-Complete Disclosure of Consumer Information**

In the context of the digital economy, the privacy and security of consumer data has become an important global issue. The whole process from consumers' understanding of goods and services information, consultation, to purchase, payment, and feedback after purchase can be completed with the help of the Internet. This generates a large amount of user data, including many consumers' personal information. Although Internet companies face a series of industry regulations and constraints on the collection, use and sharing of user data, difficulties in terms of knowability, traceability and information complexity, coupled with the challenges posed by technological

advances to privacy protection, have put the security of consumers' data privacy at risk. Although China has established an information disclosure system that focuses primarily on the consumer's right to know and the operator's obligation to disclose information as the core content of information regulation, the limited cognitive ability and self-control of consumers often puts them in unfavourable decision-making situations [5].

### **3.2. Consumer Preferences and Behaviors Guided and Predicted by Algorithms**

In the era of the data economy, the consumer relationship is composed of massive data, which is first collected, analyzed and utilized by AI, and then pushed to consumers through screening, classification and other functions. However, this data collection and processing behaviour has had a profound impact on consumer autonomy. The digital economy mines user preferences, behavioral habits and other elements through big data, enabling companies to have a more accurate and comprehensive forecasting ability for consumer demand. By intervening in advertising and search rankings, platforms build information cocoons for specific consumers and guide them in their consumption decisions. Consumers' rights to independent choice and fair trade are difficult to protect. This is because consumers can not only be defined as data, but can also be precisely quantified, which in turn influences behavioral decisions, such as the discrimination phenomenon of "big data discriminatory price".

### **3.3. Deficiencies in the Consumer Rights Defence System in Digital Economy**

The digital economy has changed the concept and means of social governance, and strengthening the system is the fundamental way out for consumer rights. However, in the current situation, there are some defects in the consumer rights protection system. Consumers face a series of problems such as the difficulty of regulating online transactions, the weak awareness of the protection of the transaction subject, the imperfection of the consumer protection mechanism, and the difficulty of collecting and extracting consumer evidence in online transaction rights protection [6]. Digital traces generated by data interactions on the Internet platform are more likely to be difficult to identify than physical traces under the traditional economic model, especially when it comes to new types of Internet services, such as online shopping and network payments, the recording of behavioral traces is often restricted by technical means, making it difficult for consumers to adduce evidence. And due to the Internet, companies are based on the maintenance of their own corporate information security and user privacy protection needs, for the public storage of user behaviour records on the server, resolution and audit often have certain difficulties and thresholds. More importantly: even if the Internet company provides data, but in the face of the massive amount of big data, if the lack of relevant professional skills to analyse and screen these data, it is very difficult to find and determine effective evidence.

## **4. Suggestions for Consumer Rights Protection in the Digital Economy**

### **4.1. Strengthen Regulations of Data and Algorithms in the Digital Economy**

The prosperity of the digital economy depends on data and algorithms. To ensure the legitimacy and validity of data, regulators should set strict data access standards to guide businesses in legally accessing and using sensitive data. However, given the lack of relevant knowledge and capabilities of ordinary consumers, creating convenient channels for the collection and use of personal information and lowering the cost of defending against data breaches are important ways to strengthen consumers' right to oversight. In addition to institutional support, data regulation needs to be facilitated in terms of rights realization. First, improve the algorithmic regulatory mechanism. Given the complexity of algorithm technology and the uncertainty of fairness, the algorithm security

assessment and supervision mechanism can be strengthened by requiring data service providers or other professional organizations to submit algorithm security assessment and risk analysis reports before algorithm implementation. Second, establish algorithm management methods for different industries. According to the characteristics of the fields and data types involved in different industries, specific algorithm audit and management techniques and methods should be established to guarantee the security and stability of algorithms. Given the importance and potential risks of algorithmic technology and related activities, the NDA can clarify and centralize algorithmic supervision responsibilities to improve the professionalism and efficiency of supervision. Finally, a third-party review mechanism for algorithms should be established. Algorithms and protocols can be reviewed by third parties with expertise and the results shared with other users. Since algorithms are the core of Internet companies' competitiveness and are often protected by trade secrets, the review of algorithm content should not be equated with the review of open-source software tools, which can be reviewed and evaluated by government regulators or qualified third-party organizations and made public in a form that the public can understand.

#### **4.2. Enhance the Disclosure and Transparency of Consumer Decision-making Information**

Although the Protection of Consumer Rights and Interests Law, the Anti-Unfair Competition Law and other laws and regulations stipulate that information provided by operators must guarantee authenticity, for digital products and services, due to the complexity of their algorithms and the specialized nature of their user protocols, guaranteeing the authenticity of the information alone is insufficient to protect the rights and interests of consumers.

Because of this, on the one hand, there is a need to clarify the scope of information disclosure for consumer decision-making. The channels through which consumers purchase goods and services through online platforms are becoming increasingly diverse and complex. The E-commerce Law stipulates that e-commerce platform operators must establish a sound credit assessment system, publish credit assessment rules, and provide assessment methods to consumers, and the platform may not delete the relevant assessments. This indicates that operators and platforms are obliged to disclose information to consumers, and that the provision of relevant information can help consumers make rational consumer decisions and protect their rights and legitimate interests. Of course, merchants are not obliged to disclose all relevant information, but it should at least include basic information about products and services, as well as legal information directly related to consumer rights protection. On the other hand, there is also a need to improve the accessibility of information required for consumer decision-making. In the case of digital goods and services, due to the complexity of the algorithms and the specialized nature of the user protocols, it is not enough to guarantee the authenticity of the information to protect the rights and interests of the consumers; it is also necessary to improve the accessibility of the consumer-facing information on the basis of the guarantee of authenticity. In particular, overly specialized terms and technical descriptions should be provided to consumers in clear and concise language.

#### **4.3. Optimize the Allocation of the Burden to Prove for Consumer Infringement**

China has not yet made special provisions on the principle of attribution of responsibility for algorithmic infringement, which is generally considered to follow the principle of fault liability. However, due to the special nature of consumer protection cases in the digital economy era, the plaintiff can only prove that he has suffered damage and that the defendant has committed an illegal act, while it is difficult to prove whether the defendant is at fault and whether there is a causal relationship between the defendant's behaviour and the consequences of the damage, so it is necessary to reconsider the allocation of the burden to prove. To this end, on the one hand, it is necessary to

clarify the principle of reversal of the burden of proof. In the era of digital economy, evidence of infringement of consumer rights and interests such as algorithmic collusion and big data generally exists in the form of data, which can only be accessed and extracted by the Internet enterprises that have committed these acts, and it is difficult for consumers to record and dig up traces of infringement. In this case, whether it is to obtain evidence or to prove the subjective malignancy of the Internet company, consumers are in a weak position in the evidential activities, so it is obviously more appropriate to apply the rule of reversal of the burden of proof, and to have the operator bear the burden of proof relying on fault and causation. On the other hand, the burden of proof should be reasonably allocated according to the circumstances of the case. In the era of digital economy, there are various ways of infringing on consumers' rights and interests, and it is not difficult for consumers to obtain evidence of infringement. If consumers have sufficient knowledge and ability to obtain evidence, the reversal of the burden of proof cannot be applied; on the contrary, if it is difficult for consumers to obtain evidence, and the evidence is mainly in the hands of the operator or platform, which has more possibilities to prove, the reversal of the burden to prove can be applied.

## 5. Conclusion

China encourages the innovative development of the digital economy and the rapid growth of Internet platform enterprises, but the digital economy is riddled with monopolistic phenomena such as “big data killing” and platforms blocking links to other applications. The digital economy and society are changing the traditional business model, which has generated a new type of conflict of interest between operators and consumers, triggering new issues of consumer protection, and thus posing new challenges to the application of the Consumer Law. While seizing the opportunity for economic development under the digital economy model, we must consider the protection of the legitimate rights and interests of consumers. Due to the virtual, complex and hidden nature of the digital economy, compared with the traditional economic model, consumers in the digital economy are in a more disadvantaged position in terms of information mastery, difficulty in defending their rights, etc. It is difficult to achieve the dual protection of consumer rights and interests and high-quality development of the digital economy by relying solely on the existing legal system and regulatory model. Therefore, to protect the legitimate rights and interests of consumers in the digital economy mode, it is necessary to coordinate and promote the improvement of the legal system, the innovation of the government's regulatory path, and the importance of industry self-regulation.

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