

Difficulties and Reflections on the Application of Consumers' Right to Regret in China

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Abstract—In recent years, the new shopping mode of online shopping has been popularized rapidly in China, and people are no longer confined to the consumption of physical stores. However, consumers are enjoying the convenience brought by online shopping at the same time. It is also common for consumers to find that there is a big difference between the goods and the merchant description or serious quality problem after they receive the goods, so it is difficult to effectively protect their legitimate rights and interests with the help of the law. In the second Amendment of 2014, Consumer Rights and interests Protection Law of China made clear the right of consumers to reverse their repentance. However, since the implementation of the Amendment, online shopping consumer repentance rights deficiencies have gradually surfaced. This paper deals with online shopping under the current network environment. In order to protect the legitimate rights and interests of consumers and promote the vigorous development of China's network market economy, the research on consumers' right of retrogression is carried out.

Keywords—Reneging right; network consumption; consumer rights and interests

I. INTRODUCTION

The ever-changing network technology has brought about a new transformation of the consumption pattern, but it has also created a new type of business moral hazard, and the contradiction between the operator and the consumer has become increasingly prominent. Even the current law cannot protect the legitimate rights and interests of consumers who belong to the weak party in the consumption mode. In this context, the legislative experts of the National people's Congress and its standing Committee conducted in-depth research and drafted the Amendment to the Law on Protection of Consumer Rights and interests, which was formally implemented on March 15, 2014. Article 25 of the Amendment adds a new right to consumers, that is, "consumers' right of estoppel" — Consumer's right to "seven days no reason to return" clause. New Article 25 is a bright spot in the second revision of the Consumer Rights and interests Protection Act, which has been praised by consumers. However, since the implementation of the (2014) revised Law on Protection of Consumer Rights and Interests, the shortage of online consumers' right to reverse their

remorse has gradually surfaced and has been increasingly challenged in the online shopping environment.

II. THE DEFINITION OF THE RIGHT OF THE NET-PURCHASE OF THE CONSUMER'S RESTATEMENT

Online shopping consumers' right of retrogression refers to the consumers who purchase under the network environment, once they have reversed their consumer behavior after the conclusion of the contract for the purchase and sale of commodities, the consumers only have to do so within the period prescribed by law, The right to rescind the contract ex parte without giving any reason and without any liability for breach of contract. This is the second time March 15, 2014, amended the Consumer Rights and interests Protection Act, section 25 mandatory provisions, but also a bright spot in the amendment.

The reason why the lawmaker is to set a statutory, cool-down consideration to the net-order consumer is, in essence, the right to purchase the consumer's right of remorse. The net-order consumers often consume the irrational urge of the operator's marketing mode, and the result tends to make the net purchase the consumer's regret. At the same time, in recent years, the development of net-purchase consumption is rapid, and the consumer can't see the object in close range, so that it is easy to be deceived by the advertisement of the merchant, and then a large number of network-purchase infringement events occur, and the consumer also suffers from the awkward situation of the complaint.

III. THE ORIGIN AND DILEMMA OF ONLINE CONSUMER'S RIGHT OF BACK-REPENTANCE IN CHINA

With the rapid development of China's economy and network, online shopping has brought great convenience to people, has been widely praised by people, and has even become the most important shopping way for many young people. With the popularity of online shopping, online shopping disputes also appear, and increase year by year; the most prominent problem in online shopping is the issue of after-sale returns. After receiving the goods, consumers find that there is a big difference with the business description or serious quality problems, so it is difficult to effectively protect their legitimate rights and interests by means of the law. In order to balance the unequal status between online shopping consumers and operators, better protect the

legitimate rights and interests of online shopping consumers. Thus, the right of consumers to renege was born.

In 1993, China promulgated the Law on Protection of Consumer Rights and Interests of the People's Republic of China, but with the development of the times, the lag of the law gradually emerged, and many provisions cannot be applied to the current online shopping and other new shopping transaction modes. And many provisions of the provisions cannot timely protect the rights and interests of consumers. For example, there are problems such as inadequate provisions on serious asymmetric information for operators, imperfect provisions on consumers' burden of proof, and disputes between operators and consumers. Once negotiated mediation fails, consumers can only spend enormous financial and energy to resolve disputes and other issues through judicial channels. In such an era background, legislators also made a timely response.

The Fifth meeting of the standing Committee of the Twelfth National people's Congress adopted the decision of the standing Committee of the National people's Congress on amending the Law on the Protection of Consumer Rights and interests of the people's Republic of China on 25 October 2013. The amendment shall enter into force on March 15, 2014. This amendment adds the "seven days no reason return" clause to consumers, which brings great convenience to consumers, but there are still many defects in the system that need to be improved. At this stage, the overall ideological and moral quality of online shoppers is generally not high, and the clause of consumers' right of retrogression is that there is no reason to return goods for seven days, and there is no need to bear any responsibility. As a result, some low-quality online shopping consumers take advantage of the imperfect existing laws to take advantage of opportunities and abuse the relevant rights to achieve the effect of returning the goods sold by the operators without having to pay the cost of the goods. This practice is fundamentally contrary to the original intention of consumers to reverse the right to regret legislation.

A. Moral Hazard of Growing Consumers

As a whole, Chinese citizens are weak on the legal system, and consumers pay too much attention to their own rights and interests, and do not care about the interests of the operators. In order to maximize their own interests, they do not hesitate to use illegal means. For example, abuse of the "7-day unconditional return" right, this right is used by online consumers incisively and vividly. As the overall ideological and moral quality of online shoppers at this stage is generally not high, and the terms of the consumers' right of retrogression are that there is no reason to return goods for seven days, and they do not bear any responsibility, Leading some low-quality online shoppers to take advantage of the imperfections of morality and existing laws Machine coincidence, abuse of related rights to the operator of the goods sold after the use, also do not have to pay the cost of the goods and return the effect. This practice will fundamentally violate the original intention of the consumer right to reverse legislation.

B. Increasing the Transaction Cost of the Operator

With regard to the prohibition of abuse of rights, there is no explicit provision in the second Amendment of the Consumer Rights and interests Protection Act of 2014, which only stipulates in Article 25, paragraph 3, that the goods returned by consumers shall be in good condition. This provision is obviously too general, the abuse of rights has not been specifically defined, which is bound to be detrimental to the protection of the rights and interests of the operator. The operator needs manpower cost, financial cost and time cost to send the goods to consumers from the classification of goods to send them to consumers. And because consumers return goods unconditionally after using the goods, the operators spend too much time and manpower. The re-administration of the returned goods and the time of return of each consumer are uncertain, and the time-consuming process of return inevitably increases the operator's unnecessary transaction costs.

C. The Principle of Freedom of Contract Is in Conflict with the Principle of Adherence to Contract

The principle of freedom of contract refers to the contractual relationship between individuals. No matter with whom to enter into a contract, whether or not to enter into a contract, to enter into a contract of what content, and in what way, the freedom to enter into a contract should be decided on the basis of the free will of the parties to the contract. Without being interfered by the state. Once the contract is reached, it should not be changed or revoked, and it should be strictly adhered to. According to the current contract law and the traditional contract law theory, the operator and the consumer are two equal trading subjects. Once the transaction contract between the two parties is established, unless there are legal or agreed reasons, otherwise, neither party can terminate the contract at will. The adverse consequences will be borne. And the implementation of consumers' right of repentance, so that consumers enjoy the right to return goods unconditionally, this is not consistent with the traditional theory of contract law, so the right of online purchasing consumers should not be widely used in all consumer contracts. But only in some consumer contracts where consumers are in an absolute weak position, otherwise, even a bona fide system of rights, the theoretical basis of Consumer Rights and Interests Protection Law is to protect the weak position of consumers, its value purpose lies in substantive justice, and its legislative policy lies in the preferential protection. However, there is no limit to the excessive protection of online shopping consumers, which is bound to bring conflicts between operators and consumers, and even to impact the normal economic order, it is necessary to restrict the system of consumers' right of renunciation, especially define the scope of application of consumers' right of renunciation, which is now of great concern. In order to better give play to the right of consumers to take a positive role in the estoppel.

IV. INTROSPECTION ON THE REPENTANCE RIGHT OF CHINA'S ONLINE PURCHASE CONSUMERS

A. *Refinement of the Period of Application of the Right to Estoppel and the Type of Commodity*

In the special way of online purchase, the return period of seven days in the right of repentance cannot meet the real needs of online purchase. On the one hand, some goods with shorter shelf life do not need a return period of seven days, so they can be classified in detail, corresponding to different return periods. On the other hand, for a relatively large commodity such as household appliances, consumers can only use it for a period of time to find out whether there is no problem with the goods, and then decide whether it is necessary to exercise the consumer's right of retrogression. Therefore, such goods should extend the application period of the consumer's right of estoppel. In short, it should be concluded in the legal provisions of the right of estoppel the specific classification of the goods shall make corresponding provisions for the duration of their exercise.

Article 25 of the Law of Protection of Consumers' Rights and Interests enumerates commodities that do not apply the right of estoppel, but its scope is too principled and narrow, which limits the exercise of consumers' right of estoppel. Therefore, it is necessary for the law to keep pace with the times. In the face of rich and colorful commodity types, we should further refine and perfect the scope of application of online consumers' right of renunciation. For example, through the holding of hearings, expert consultation and other ways to draw up a complete catalogue of goods, classification of different types of goods and the corresponding right of renunciation applicable to the time limit and unfit to return the goods listed.

B. *Regulating the Exercise of the Right of Estoppel*

In the online shopping, the most direct way for the consumers to exercise the right of estoppel is to express the intention of repentance and return to the operator through the customer service of the shop on the telephone or on the website, and then to handle the related matters of returning the goods by the consumers themselves. And the way to return goods is often returned by express mail to the operator, the operator notifies the consumer after receipt of the goods, and returns the transaction amount paid by the consumer to the consumer. And the freight that produces from this is borne by net buy consumer oneself. In fact, the cost that the online shopping consumer pays at the time of payment includes the cost of the goods themselves and freight, and the merchants only return the goods themselves. The cost of not returning freight is unfair to consumers online shopping. The operator should return the freight to the consumer when handling the refund, which not only accords with the essential meaning of the estoppel right in China, but also plays the role of balancing the inherent gap between the consumer and the operator. It also accords with the meaning of economics and logical thinking of law.

C. *Strengthening the Ideological and Moral Quality of Citizens*

The realization of any legal right requires not only the provisions of the legal provisions, but also as the superstructure of social management, the effective operation of the law cannot be separated from the perfection of other social systems. At present, the quality of Chinese online shopping consumers is still in a relatively low level. In real life, many citizens in China do not exercise their rights properly, but use the loopholes of the current law to take advantage of opportunism and abuse their rights. Fundamentally speaking, they violate the original intention of the legislation of consumers' repentance rights. Strengthening the construction of citizens' ideological and moral quality under the new situation is not only an important direction of consumers' right to reverse their repentance in judicial practice, but also an important prerequisite for the orderly operation of various regulations under the environment of socialist market economy.

V. CONCLUSION

With the development and perfection of social practice, consumers' right of repentance is gradually implemented with the deepening of theoretical research and the gradual improvement of supporting system. Based on the provisions of Article 25 of the Law on Protection of consumers' Rights and interests and the interim measures for the Administration of 7 days' unjustifiable return of goods purchased on the Internet, this paper summarizes the shortcomings of the right of repentance of online shoppers in the concrete implementation process of China's online shopping. The author believes that using the authority of the law is the direct means to ensure the effective implementation of the right of repentance of the online shoppers. In addition to the provisions of the law, the right of repentance of the online shopping consumers will have to be implemented smoothly through the active cooperation of many parties. Therefore, it is necessary to analyze and study the right of repentance of online consumers in order to promote the perfection of the system.

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