

Improving the system of consumer protection in the Russian market in the context of achieving leadership in digitalization

Elena Bagreeva

Financial University under the Government of the Russian Federation
Leningradsky prospekt 49, 125993 Moscow
Russian Federation
e-mail: bagreg@yandex.ru

Elena Barakina

Financial University under the Government of the Russian Federation
Leningradsky prospekt 49, 125993 Moscow
Russian Federation
e-mail: elenabarakina@inbox.ru

Abstract The relevance of the need to create a new regulatory environment that provides a favorable legal regime in the financial sector for the transition to the leading position in the digital economy is obvious today. In order to understand the current legal field in this area, our paper generalized and analyzed the Russian legislation in two areas: legislative acts regulating the provision of financial services, and acts securing the rights of consumers and protecting them. The areas of responsibility of the main regulators in the provision of financial services and the protection of the rights of their consumers — the Central Bank of the Russian Federation and the Federal Service for Supervision of Consumer Rights Protection and Human Welfare (Rospotrebnadzor), respectively.

Our results demonstrate that a set of legal measures will improve the relations between financial market entities in the context of digitalization and with the use of new technologies, where the consumer of financial services will be the central link - his rights and ways to protect them. The implementation of this approach will stabilize the financial sector, improve the level and quality of life of the population of the Russian Federation.

1 Introduction

Digitalization brings with it not only new opportunities, but also new challenges (Frishammar et al. 2019). An active and constructive transition to digitalization will create new potential for growth and leadership: people will be given opportunities for development and integration, raising the standard of living and, in general, a society with more equal opportunities (Cortellazzo et al. 2019). However, this can only happen if government authorities respond promptly to the challenges of digitalization and establish the right structure in relation to competition, regulation, infrastructure, education and diversity of opinion.

In the context of digitalization, dramatic changes in the way of life are taking place in society: accelerating the receipt, collection and storage of information, expanding the possibilities for financial transactions, the emergence of new threats of crime and their prevention, and others. We can say "the digital revolution" covers "society in different areas of the functioning of man, drawing himself and the results of his life" into a new digital space. One of the basic needs, as well as the rights of a citizen and an entrepreneur, is the actual access to basic financial services (Scholtens and Van Wensveen 2003). Masiukiewicz (2016) addressed this problem. Benston (2000) spoke out on regulatory goals in the area of banking services.

Consumer law, policy, practice limit fraudulent, misleading, and unfair business conduct. Such protective measures are necessary to strengthen consumer confidence and establish more balanced relations between enterprises and consumers in trade transactions.

The integration processes taking place in the world require a global approach to protecting consumer rights within a transparent and predictable legal and self-regulatory framework. Disparate national strategies can hamper the resolution of consumer protection issues, as they can be most effectively resolved through international consultation and cooperation. OECD member governments have recognized that internationally coordinated approaches may be required to exchange information and develop a common understanding of how to solve these problems (OECD 2019).

In the United States, the Federal Trade Commission has a central place in the system of consumer protection (HG 2019), one of the goals of which is to prevent fraud, deception and dishonesty in the market. In addition to it, the rights of consumers are protected by industry supervisors within their main area, for example, the consumer financial protection bureau.

In the European Union (EU), Article 38 of the Charter of Fundamental Rights of the European Union (European Union 2019) represents the main law on consumer protection policy, which is in force to promote the interests of consumers and ensure a high level of protection of consumer rights. The EU contributes to protecting the health, safety and economic interests of consumers, as well as promoting their right to information, education and self-organization in order to protect their interests.

2 An overview of the system of legal acts in the Russian Federation

Changes in legal regulation in connection with the transition to the digital economy are naturally reflected in the transformation of the financial consumer protection system. Conditionally normative legal acts in this area can be divided into two areas: legislative acts regulating the provision of financial services (presented in Figure 1), and acts securing the rights of consumers and their protection.

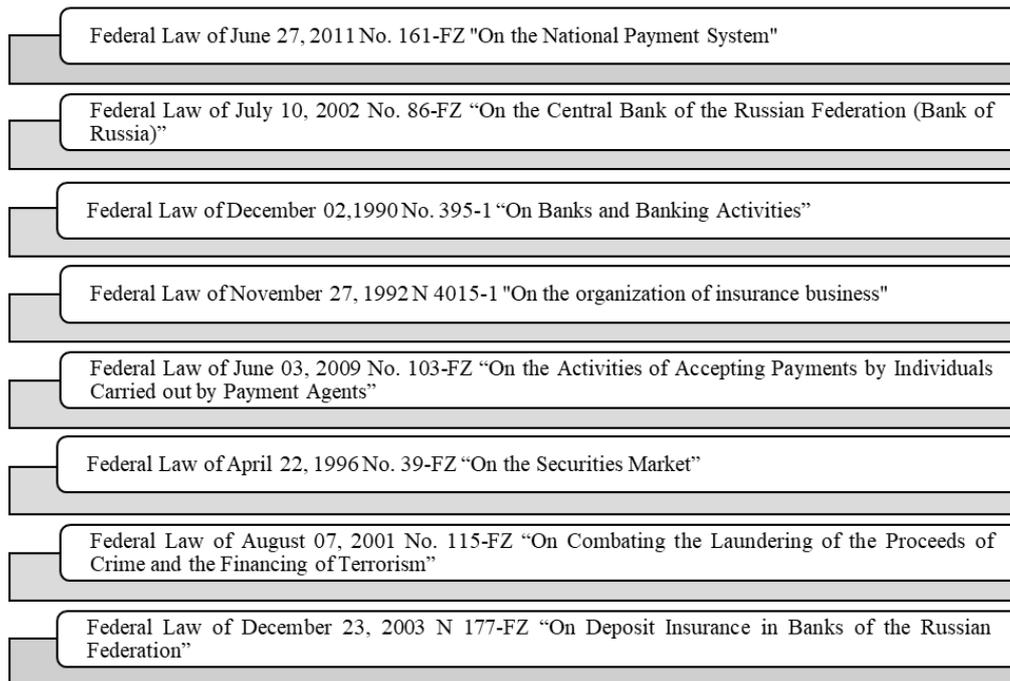


Fig. 1. Basic regulations governing the provision of financial services.
Source: Own results based on Pravo (2019)

The main regulatory acts enshrining the rights of consumers and the implementation of their protection are federal law No. 2300-1 of 02/07/1992 "Law on the Protection of Consumer Rights", as well as legal norms in part 1 of the Civil Code of the Russian Federation (see Pravo 2019).

The above list of normative legal acts is constantly being improved and supplemented, therefore it cannot be called exhaustive. Over the past few years, normative legal acts have been adopted that improve the functioning of the system for protecting consumer rights, including financial services. Digitalization has a significant impact, as it gradually not only expands the possibilities of providing financial services, but also simplifies the procedure for protecting consumers.

3 Analysis of legislative changes

Federal Law of 07.02.1992 No. 2300-1 "Law on the Protection of Consumer Rights" (hereinafter referred to as the ZOZPP)

As already mentioned, this document is the main one in the field of consumer protection. Over the past 5 years, 7 amending and supplementing normative acts have been adopted aimed at increasing the list of entities that are required to comply with the provisions of the law. A significant change was the vesting of entities with actual powers in this area, thus creating a system of bodies that develop and implement regional and municipal consumer protection programs.

In accordance with article 42.3. ZoZPP, in multifunctional centers for the provision of state and municipal services, calls are received and consulted. The report of Rospotrebnadzor [5] for 2017 gave the structure of detected violations of mandatory requirements in the implementation of federal state supervision in the field of consumer protection under the articles of the Law "On Protection of Consumer Rights" (see Figure 2).

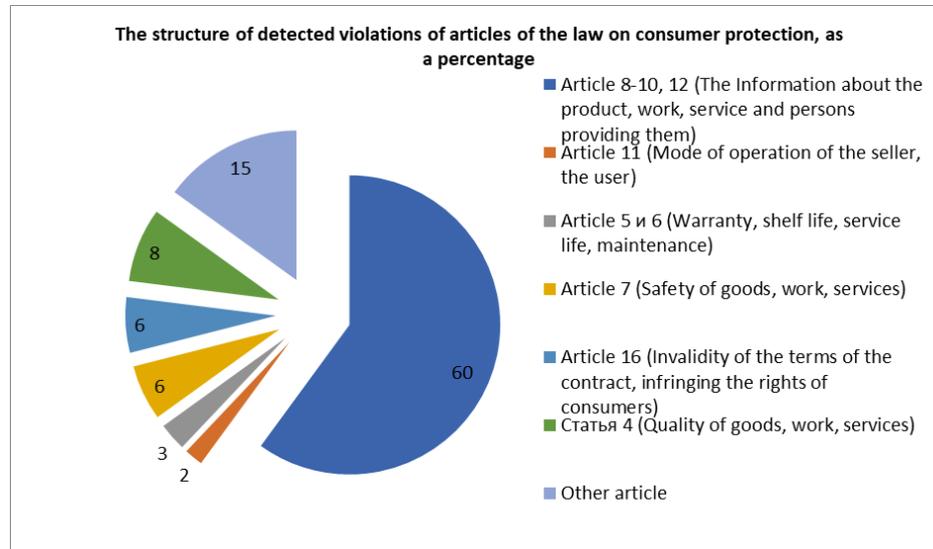


Fig. 2. Structure of detected violations of articles of the law on consumer protection
Source: Rospotrebnadzor (2017)

Therefore, the priority direction in improving the legislative act must be given to information support of consumers. This provision can be implemented by expanding the list of mandatory information about a product or service.

Federal Law of June 27, 2011 No. 161-FZ "On the National Payment System"

This law is basic in the field of the functioning of the national payment system as a whole, including the main conditions on the provision of payment services. The document describes in detail the procedure for the provision of payment services, secures the mutual rights and obligations of the payer, recipient of money transfers. Over the past 5 years, changes and additions have been made 15 times, expanding the list of subjects of payment systems, clearly defined the procedure and grounds for charging a commission for the provision of services.

However, the list of subjects of the national payment system does not include “users” or “consumers” themselves, which impedes the introduction of digital technologies. For example, distributed registry systems provide for the actual independent filling in of a distributed registry by a user-consumer, therefore, it gives him the right to be among the full-fledged entities of a distributed registry system in financial transactions.

Federal Law of July 10, 2002 No. 86-FZ “On the Central Bank of the Russian Federation (Bank of Russia)”

The specified act establishes the status of the Bank of Russia, its functions, management structure and principles of organization, authority. The regulator currently organizes cash circulation, forms a monetary policy, develops and ensures the stability of the financial market regulates and supervises banking activities, etc. Over the past 5 years, the Law on the Central Bank has been amended and supplemented more than 30 times, mainly related to the expansion of its functions and powers. The ability and success of the introduction of digital technology, i.e. the digitalization of the areas overseen and monitored by the Bank of Russia largely depends on the measures it takes.

New technologies can seriously accelerate commodity-money circulation, make it safe and at the same time more affordable, which has been repeatedly noted by the International Bank for Reconstruction and Development, as one of the key areas of activity of national banks. International experience shows that national regulators are successfully digitalizing through the creation of regulatory platforms, the goals of their functioning are presented in Table 1.

Table 1. Goals for the functioning of regulatory sites

Minimization of time and costs associated with the introduction of technologies
Achieving greater competitiveness of national innovative companies in the financial environment
Expansion of the segment and types of financial products based on innovative solutions
Ensuring interaction between the regulator and financial market entities in order to build a balanced legal system
Development of effective mechanisms of legal regulation and supervision in this area

Source: Own results

A mandatory component of these regulatory platforms is the availability of a consumer protection system (CBR 2017). In the UK, consumer protection measures are established on a case-by-case basis, taking into account the possibility of several approaches based on the principles: the consequences of the risks are borne by consumers; the area of responsibility of the company is established by agreement with the FCA; requirements for licensed companies apply; the company, a participant in the site, assumes full responsibility for protecting consumers and compensating for their losses. In Singapore: a site participant is obliged to inform its customers that the financial service operates as part of piloting the regulatory site, as well as about the risks associated with it. He is also obliged to receive confirmation from customers about understanding the risks that can be realized when using the services. In Australia: companies must provide customers with information about the manned service, its cost, dispute resolution procedures and comply with regulatory requirements related to financial advice and assistance in obtaining loans. When providing financial services as part of their piloting, fintech companies must comply with the legislation on the protection of the rights of consumers of financial services, as well as notify consumers that: the company providing the service does not have a license; financial services are piloted within the regulatory framework; some protection mechanisms associated with the use of financial services will not be applied.

The success of such a platform depends on two components: the consumer must be sufficiently financially competent and informed of the latest financial products, and the regulator has rather great authority among consumers so that they are confident in minimizing the possible risks of losses. Thus, the digitalization of the financial sector directly depends on the measures taken by the Bank of Russia as a regulator in this area.

Federal Law of December 02, 1990 No. 395-1 “On Banks and Banking Activities”

This law is the basis of the legal regulation of banking activities, including the provision of banking and related services. The specified document over the past 5 years has been changed and supplemented more than 30 times in order to ensure the stability of banking organizations, increase public confidence in their activities, etc.

One of the services provided by banking organizations is a bank deposit. In this case, the consumer’s problem may be obtaining standard structured information about the conditions of a bank deposit. According to the monitoring results (Konfop 2017), the tendency of banks to refuse to conclude customary bank deposit agreements customary for the consumer and to switch to the conclusion of a deposit agreement as part of a general (universal) banking service agreement was revealed. This practice is present in 50% of banks, consistent with international experience and the provisions of Russian legislation. However, this approach leads to a more complicated consumer situation, since significantly increases the amount of information needed to make a decision about the service. Opening a bank deposit for a consumer is the receipt of income in the form of interest on a deposit, in practice, in 24% of banks, a prerequisite for a bank service contract is to issue a bank card to the client with a separate bank account, the service of which the consumer must pay in accordance with the rates established by the bank. Thus, the income from the deposit is reduced by the amount of the paid tariff, and the citizen needs to realize this information.

Formalization of the provision of information will help increase confidence in banking organizations and increase the number of consumers of financial services. The introduction of standards for providing information to consumers is consistent with the objectives of the ongoing transparency policy of the banking system and the Bank of Russia. A similar standard is valid in the USA (ECFR 2019).

Consequently, it is relevant to introduce a requirement for a consumer to receive structured information that allows him to quickly evaluate not only the interest income from a deposit, but also the amount of expenses associated with opening this deposit in a particular bank, and on this basis make an informed decision on opening or managing a bank account. The information must allow the consumer to: compare costs and income for each item of financial service or product. It should be stated briefly, clearly and easily readable.

Civil Code of the Russian Federation of October 30, 1994 No. 51-FZ (Part 1)

This codified normative act regulates civil law relations, including contractual relations. The conclusion of any contract for the consumer is a rather difficult moment, especially for socially vulnerable segments of the population.

The law gives the consumer the right to inform the lender of his consent to receive a consumer loan (loan) on the conditions specified in the individual terms of the consumer loan (loan) agreement, within 5 working days from the date the individual terms of the agreement are provided to the borrower. It would be logical to expand this right also for contracts in the framework of the provision of savings services and other financial services. As the monitoring [7] shows, the realization by the consumer of his right to receive additional time when making a decision on the conclusion of an agreement is difficult today. In most cases, consumers do not know that they have such a right and consider normal the immediate signing of an agreement, and the Law does not require the provision of information on the existence of such a right as part of information about the conditions of the deposit. In 84% of banks, the client does not have the opportunity to familiarize themselves with the terms of the contract.

Federal Law of 07.08.2001 No. 115-F3 “On Combating the Laundering of the Proceeds of Crime and the Financing of Terrorism”

This regulatory act is currently one of the most discussed, since most consumer bank accounts are blocked in accordance with the provisions of this law. Innovative technologies transfer consumers to a remote mode, which is very convenient for them, but increase the risks of unfair behavior and fraud. For consumers, quite often the reasons for the blockage and, which is important, the procedure and timing for checking their financial transactions remain unclear. During this time, a person may have delay in necessary payments, which in turn will lead to financial losses in the form of penalties and fines.

Another problem is the process of identification and authentication during financial transactions, as remote identification allows financial services to be made more accessible, including for people with disabilities, the elderly and people with limited mobility, on the one hand, but it is not an entirely clear procedure, on the other. In addition, there is a risk of financial loss for the consumer in the event personal data reaches fraudsters.

4 Conclusions

All in all, our analysis of the provisions of state regulation and the goals of protecting consumer rights has shown that digitalization does not change the goal but helps to optimize the means and approaches of its implementation. The digitalization of the financial sector directly depends on measures taken by the Bank of Russia as a regulator in this area.

In order to improve public awareness of goods and services, including low-quality goods identified during the control and audit activities of the Federal Service for Supervision of Consumer Rights Protection and Human Welfare, a special state information system can be created with mandatory information about it at points or portals of sellers, manufacturers, performers, etc.

In order to introduce innovative digital technologies, add “consumer” or “user” to the list of subjects of the national payment system in connection with his actual participation in financial transactions.

Moreover, in order to increase public awareness, make requirements for the consumer to receive structured information about the proposed financial products and services.

In addition, in order to ensure consumer rights, it is necessary to clarify the procedure for providing the consumer with information about his rights at the conclusion of the contract: either to supplement the law with the obligation to inform the consumer of his right not to sign the individual terms of the contract within 5 days from the moment of their receipt, or to establish the obligation of the bank to provide the full text of the contract to the consumer less than 5 days before its signing.

Moreover, in order to increase confidence and expand the number of consumers with innovative technologies, it is necessary: specify the mechanism of interactive remote identification of customers of credit organizations - individuals using their biometric personal data, as well as information about them contained in a unified system of identification and authentication, allowing a credit institution to open an account (deposit) to an individual without his personal presence using the Internet; specify the mechanism for the rehabilitation of clients who were denied service as part of the exercise of the powers provided for by anti-legalization legislation.

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