

# Research on Electronic Commerce Platform Consumer Data Rights and Legal Protection

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## ABSTRACT

In the era of big data, the contradiction between e-commerce platform and consumers is becoming more and more serious with the popularization of the Internet. Consumer personal data is not protected, and the platform takes advantage of the advances in big data to capture consumer data and generate revenue. The purpose of this paper is to clarify the responsibility to protect for e-commerce platforms. Inform consumers of their obligations and protect their rights and interests. Resolving data privacy disputes between e-commerce platforms and consumers. For the phenomenon of consumer data leakage, the platform has no clear protection mechanism, consumers themselves in the use of the process, their own lack of protection awareness. And there are a few problems with that. The main content of this paper is to protect the rights and interests of consumers from the point of view of consumers, to improve the relevant legal provisions, to ease the contradictions between consumers and e-commerce platform. To protect consumers' data rights and interests from three aspects: First, to perfect the platform's privacy protection regulations and preventive measures to avoid risks, and to minimize the risks after data leakage. Second, to enhance consumers' awareness of protecting their own data rights and interests, we should cooperate with the data protection of e-commerce platform and find an effective way when privacy data is violated. Third, from the government's point of view, monitoring the use of e-commerce platform data. Protecting consumer data from a legal perspective. The platform, the consumer, the network supervises the department tripartite coordination, establishes the complete legal safeguard system, promotes the data information economy the development.

**KEYWORDS:** Privacy Data; Consumer rights; E-commerce Platform Obligations; Privacy protection

## I. INTRODUCTION

### A. Research purposes

With the development of the information age, the Internet has become an integral part of people's daily lives, along with the development of various online electronic trading platforms such as JD.com, Taobao, Pinduoduo, Dewu, etc., people are also switching from offline shopping to online shopping. At the same time, the hidden problems are gradually exposed. In the process of data circulation, data leakage has become a major problem. From this came out this Electronic Commerce Law. The law has protected the rights and interests of all parties in e-commerce activities, standardized and restricted the

market transactions, and maintained the market order of the network platform. Learn from the electronic commerce law, the Civil Code and the network security law, as well as the personal information protection law (draft) and data security law (draft). Research and analyze the relevant laws to explore how to protect consumer data rights, and better deal with the platform and consumer disputes. This topic focuses on the analysis of the protection of platform consumer data rights in e-commerce activities, and legal protection research. This paper analyzes and probes into the theoretical and practical problems of

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consumer rights and interests and legal protection in the electronic commerce platform, and puts forward and consummates the related legislation, law enforcement, supervision and protection system and countermeasures.

## **B. Research significance**

### **1. Theoretical significance**

Through further research on relevant laws such as the electronic commerce law, tort liability of the Civil Code, network security law, Data Security Law and Personal Information Protection Law, to protect the rights and interests of consumers. Through to the electronic commerce activity form characteristic research may obtain. One is that consumers don't interact face to face with the platform and can't see the real thing at the time of transaction. Second, the data flow between the platform and the consumer is not equal. Consumers in shopping to provide the corresponding phone and address while consumers on the side of the operator is little known. To some extent, this gives e-commerce platforms the opportunity to divulge consumer privacy. The third e-commerce platform of the online shopping model in this era is undoubtedly convenient. This has attracted a large number of consumers to spend on the network, but in the network of data protection is not as secure as we think, the loss of data is imperceptible.

### **2. Practical significance**

The main content of this article is basically from the perspective of consumers to see the transaction and data protection of this e-commerce platform. In this information age, network consumption has become the mainstream, gradually replacing the entity management. And the operator of Electronic Business Affairs Platform and consumer also became the mainstream personage that consumes. In the process of consumption, consumer data rights and interests have not been the corresponding protection, many times e-commerce platform will be the consumer data leakage. E-COMMERCE platform for consumer data rights is not active. This topic and the related research results or conclusions can provide scientific basis for consumer data rights and legal protection of e-commerce platform, to provide scientific countermeasures for related legislation, law enforcement process, supervision and e-commerce platform governance, and to provide corresponding theoretical support for e-commerce platform consumers. Put forward legal, reasonable and feasible legal system, construction system and improve the program.

## **II. An analysis of the legal protection of consumers' data rights and interests in e-commerce platforms**

### **A. The protection provisions of the e-commerce law are based on the provisions of The E-commerce Law**

It protects the rights and interests of all parties in e-commerce activities. Safeguarding the standardization of electronic activities. It provides reliable legal support for the protection of consumers' data rights and interests. In the law of electronic commerce. Platform operators should not offer options that target consumers' personal characteristics while providing consumers with shopping activities. Respect consumer's individual privacy data, protect consumer's data information security. In today's search it is clear that e-commerce platform operators are taking advantage of consumer preferences and so on. In the process of recommendation is often aimed at consumer characteristics and provide the goods. This practice has led to the disclosure of consumers' private data. The privacy of the consumer is exposed. The law makes it clear that platforms are required by law to make use of consumer data. The responsibilities and obligations of the platform are set out in the form of legal provisions. Consumers through the platform, after buying goods or receiving services from merchants, should take the responsibility proactively in case of disputes with merchants within the platform, "The e-commerce law focuses on regulating and regulating the e-commerce platform from the perspective of E-commerce Platform, and makes clear the responsibility of the platform, so as to protect consumers' data rights. "

### **B. The provisions of The Cyber security Law are obviously different from those of the e-commerce law**

The Cybersecurity Law is mainly aimed at ensuring the safety of citizens' cyber activities and protecting their legitimate rights and interests in cyber activities. Promote the sustainable and healthy development of the data economy society. The law stipulates that web products and services provided by the platform must conform to the legal requirements of the state. Platform operators need to seek help from relevant departments when they find defects in their products and services. And actively inform the consumer. The platform can collect and use consumer data in its activities, but only if it is in compliance with the law. Many of the user agreements signed by today's platforms require the adoption and collection of user information, but the project cannot be rejected, and if rejected, the e-commerce platform cannot be used, which to some extent means forced sale. Such regulations for collecting consumer data do not

comply with the law. The platform merely fulfils the obligation to inform, but the right to choose is not in the hands of the consumer. It should be slowly translated into greater compliance with the law when the option does not affect the use of the platform. In the process of collecting consumer data, e-commerce platforms should clearly inform consumers of the purpose and scope of application of the information collected and how to apply it. There is a need to ensure that consumer data is not leaked during the collection process. And Act in accordance with the law. Consumer data can only be collected with the consent of the collector. From this we can see that the State attaches great importance to consumer's right of privacy and data. Under no circumstances should the platform divulge or tamper with consumers' personal data. And put forward the corresponding supervision and emergency measures to actively ensure data security. The cyber security act consolidates disparate legal provisions and raises the level of regulation to a higher level. Electronic commerce platform and other subjects of legal responsibilities and obligations to make a comprehensive provision. Including the obligation to abide by the law, adhere to social ethics, honesty and credit obligations, take the initiative to accept supervision obligations and assume social responsibility. And in the chapter of Network Operation Security, network information security and supervision system and emergency disposal, further optimization and subdivision. In "legal liability" it raises the standard of punishment for violations. Strengthened the government's supervision and punishment dynamics, guaranteed the network data security comprehensive reasonable application.

### C. The Civil Code guarantees

The personal information of consumers shall be protected by law as clearly stated in The Civil Code, and that e-commerce platforms, when collecting and obtaining personal information of consumers, shall comply with the provisions of the law, and shall not engage in illegal collection, trading or other acts without the authorization of consumers. In order to solve the problem of how to protect the civil rights after they have been infringed, the tort liability of the Civil Code is compiled. Among them platform relies on big data technology to encroach on consumer data rights and interests behavior, should be punished by law. According to its rules. The requirements set out the obligations that the platform will have to fulfil. And suggest that when consumer data is infringed. The platform needs to inform consumers immediately, and the e-commerce platform should protect consumers 'data rights and protect consumers' data security by deleting, circumventing and disconnecting the network. And when it does. For the

platform did not take timely measures, the need to bear the corresponding responsibility for subsequent violations. In this article, it can be inferred that the platform needs to safeguard the data rights and interests of consumers, when the data rights and interests of consumers are infringed, the platform should protect the data of consumers, how to minimize the harm in the event of leakage, and what kind of obligations the platform itself needs to undertake.

### D. The Law on the Protection of Personal Information and the Law on Data Security Stipulate

The Protection of Personal Information and the Law on Data Security protects the rights and interests of consumers' personal information data, regulates the handling of the circulation of personal data, safeguards the reasonable flow of consumers' personal information under the constraints of law, and promotes the management and utilization of consumers' personal information. It advanced that personal information is all kinds of information related to electronic and natural person. The processing of personal information includes the collection, storage, use, processing and transmission of personal information. By specifying what personal data is, the draft provides legal support for the subsequent classification of data and the rating of risk, bringing legal protection of consumer personal data to a new level. The government department establishes and consummates the consumer personal information protection system, carries on the prevention to the violation consumer personal information phenomenon and proposes the corresponding punishment measure. The government strengthens the education and propaganda of the protection of consumer's personal information, and promotes the formation of a good environment for government supervision departments, platforms and consumers to participate in the protection of personal information. The state has improved the system of personal information protection. Played a major role in prevention in the first place. To create a society that focuses on the protection of personal information data, and to strengthen the promotion of this aspect. Platforms dealing with consumer personal information data should be fully informed by consumers. The regulation makes the processing of personal information more formal and rigorous, focusing on obtaining the consent of consumers, so that all data flow is no longer a simple flow between platforms, but through consumers to the next platform, improve the security of data flow, but also to protect the rights and interests of consumers. The purpose of the Data Security Act is to improve the

security of personal data and to implement the responsibilities of the parties. Advanced ideas are set forth in the law. Data security for the hierarchical batch processing to help data security, and let the platform for data security has a clear hierarchical processing. The main content of the data security law (draft) is to clarify the obligations that the platform needs to fulfill in data activities, implement the responsibility of all parties for data security protection, make consumers pay attention to their own data security, and strengthen the supervision of the national regulatory authorities. Promote the security of data circulation and perfect the safeguard system of data security. The definition of data in the draft provides a clear definition and division of any record of data in electronic or non-electronic form. And the transaction is an inevitable data activity, the data security aims to protect the data security through the necessary measures.

### III. The dilemma of Consumer Data Protection of E-commerce Platform

#### A. The legislative protection of consumer personal data of e-commerce platform is not perfect

In the information age, the platform for e-commerce consumer personal data collection and use of the absence of a clear line, which led to the platform no bottom line collection and use of consumer personal data. The realization of legal protection of consumer personal data. A valid boundary needs to be added. Ensure that the data collected and used by the platform is collected within limits and not without limits. There is currently a lack of clear legislative provisions setting out specific standards for consumer data. How to deal with the problem of data breach and how to deal with the emergency treatment of consumers after data breach is still an unsolved problem. Lack of legal guidance on regulation. There is no clear hierarchical management of personal information and no corresponding emergency measures. There is a lack of regulation in the law on the regulatory authorities for network data. In the current legal provisions of the corresponding civil liability treatment in the absence of the state. Such as the cessation of infringement, the elimination of the state of harm and compensation for damages and other forms of tort liability. At the same time, "Personal Information Protection Law" and "Data Security Law" have not been issued, still lack of relevant legal protection, consumer personal data security and information protection cannot be adequate protection. The coordination and application of several laws are not perfect, and the supervision of government departments is not enough, resulting in the situation of cooperation among the three is not

enough. For the protection of consumers' data rights and interests, the basic reference should be "Data Security Law", and promote the cooperation between "network security law", "personal information protection law" and "electronic commerce law". Consumer data security as an important part of network security, network security system covers many security systems. How to coordinate and complement with "Network Security Law" to avoid the waste of legislative resources. And as the intersection point of consumer network data security in two laws how to balance access. How to judge the benchmark of the law also needs to be considered.

#### B. E-commerce platform "big data killing familiar" problem highlights

The so-called "big data killing familiar" refers to the platform operators to use consumers to trust their own psychology, to provide consumers with lower quality but higher prices of products. The platform collects and utilizes consumer data for profit. "Big data slaying" takes advantage of the data gap between platforms and consumers. For the platform's own benefit. This behavior has caused the infringement to the consumer's legitimate rights and interests. "looking at people to dish" exists the behavior of cheating consumers. The platform excessively collects the consumer's data to judge consumer's daily expense condition. Thus, "private customization" of goods is carried out, and the price of goods is raised to make profits. According to the development of the current data age, "big data killing familiar" in the consumer purchase of goods and services under the premise of the platform by virtue of Network Technology. The collection and collation of consumer personal data, followed by an analysis of the data. To determine the rates charged to different consumers, so the price of the goods cannot be reflected in this way. In the face of old and familiar customers, the price of goods purchased may often exceed new customers. This behavior is common to many platforms. E-commerce platform is to take advantage of this, through the collection of consumer consumption information, to provide consumers with their ability to consume goods, recommend and search commodity prices as you buy the price of goods and increase. If consumers are buying more expensive goods. The search you get from the platform also becomes expensive. Rather than searching for the goods more in line with the results of good prices. Its data technology operation way is through the data technology cloud technology intelligence computation algorithm to collect and arranges the past transaction data, thus constructs the exclusive database; Flow three is through the database analysis, and use artificial intelligence algorithm as the

support, through the consumer's previous shopping data to predict the consumer's daily consumption level to set the price; Process four is to set reasonable constraints, including sales targets, the lowest price, and so on. And the emergence of big data killing is fundamentally the platform's excessive use of data technology and the collection of consumer data over the limit. And the data that consumer and platform side get is asymmetry. The platform can see the level of consumption of consumers through their consumption records. But consumers cannot get the real price of the goods themselves. In the case of opaque transactions, the platform collects and uses consumer spending records as a basis for raising prices and letting people take over. To show different prices and make a profit on the difference.

### **C. Insufficient enforcement and protection of consumer data rights and interests among the existing legal provisions**

Most of them consider and protect consumer data from an electronic platform perspective; The fact that there is no explicit chapter on the consumer perspective also fundamentally ignores the importance of this aspect. Another perspective can think more deeply, but also clearly understand the specific needs of consumers for e-commerce platform in consumer data protection. China's existing legislation only aims at the electronic commerce platform complaints, the operation of the reporting mechanism to make a general and obligatory norms, but there is no clear legal provisions for such obligations. The mechanism is still in the hands of the platform itself. And the platform lacks the initiative regarding the consumer data protection. And the platform itself is still under-regulated. There is also a lack of attention to consumer data protection, and even infringement of consumer data rights and interests exist. Although China has promulgated the "electronic commerce law," both from the platform, consumers and government regulatory authorities, for consumer data protection is still inadequate, China's online shopping convenience has been at the forefront of the world, at the same time, China should also lead the world in the legislative system. The protection of data rights and interests of consumers in China. Many are take the platform as the starting point, lacks the consumer's angle of view. Nor is there a specific section on consumers in the law. This is far from enough attention to consumer data protection, not only the law itself, but also the consumers themselves do not pay special attention to their own data on electronic platforms.

### **D. The plural legal relief mechanism of consumers' data rights and interests needs to be improved**

The consciousness and ability of consumers to defend their rights and interests are relatively weak, and the mechanism of consultation and settlement has not yet played its due role. For the protection of consumers' rights and interests, administrative complaints, reports and remedies need to be strengthened. At present, China's data protection system is basically in a state of absence, and the data identification and judicial protection mechanism for consumers still need to be improved. The system of basic protection of key information established by "Network Security Law" has solved the above-mentioned problems to some extent, but the related supporting system of legal relief still needs to be improved, make to consumer's data protection train of thought has not yet practiced. Although the relief framework of important data protection has been initially designed in the data security law, there are still a series of problems such as the unscientific establishment of the identification mechanism. And the regulation of data protection is not enough for the current platform, in the life of the platform leakage of consumer data often seen. Third Party delivery and delivery platforms such as ele. me, Jd.com and SF Express leak consumer data. Such as address and phone after the language attack. Platforms themselves often lack oversight of the flow of data.

### **IV. The electronic commerce platform consumer data rights and Interests Protection Consumption countermeasure**

#### **A. Perfecting the Legislative Provisions on the protection of personal data rights**

Big data take already produced data as the foundation, regardless of is related, all has the research value very much, through the collection, the reorganization, the analysis and draws the conclusion. These processes analyze future developments and are an application of mathematical statistics and network techniques. As for big data, we need to clarify its fundamental concept, at the same time that the platform provides convenient shopping methods for consumers, we need to analyze the phenomenon that big data infringes on consumer data, and through improving existing laws, strengthen the government's supervision and improve data technology to constrain the platform operators, thus providing a guarantee for consumer data security. Improving personal data rights and interests protection legislation in the overall environment of the data era, the legal protection of consumer data protection needs to be improved, and the technology of network data needs to be improved, provide a reliable support for

consumer data security. Starting from the Consumer Protection Law, the subject status of consumers is clearly defined, and the basic rights of consumers are determined. Consumers can enjoy the right of control over personal data and are not harmed by the platform in accordance with the law. To improve the laws and regulations on personal data protection, we can actively learn from the relevant foreign laws to ensure the implementation of personal data rights, such as the consumer's right to know and the consumer's right to permit the platform to use their own data, as well as the right to claim damages according to law when the consumer's data is infringed. In order to ensure the gradual improvement of the legal protection of consumer data rights and interests, it is necessary to ensure that the laws enacted are more scientific and relevant to life. Can fully face the future of scientific and technological progress and the emergence of unknown conditions. In order to further develop on the basis of legislation. Promoting a world environment for consumer data protection. We will accelerate the legislative process of the personal information protection law and define the scope of consumer data protection in the data era. The introduction of the data security law and the personal information protection law is also improving the core concept of data and providing data-based data security and information protection rules for consumers, so that their data can be protected. With the implementation of supervision, the procuratorial organ becomes the core C position to protect consumers' data rights and interests, to improve the relevant regulatory units and regulations, and to propose relevant legal constraints. Not only for the platform to be constrained, but also for the regulatory performance of the assessment to prevent inadequate regulation of the phenomenon, which led to the platform on the consumer data is not attached.

### **B. To strengthen the effective regulation of merchants' "big data slaying" behavior**

In the context of the data age, many e-commerce platforms have the behavior of collecting consumers' personal data, through the system to collect and analyze the results to set the price for the platform sales to provide appropriate technical support. We need to clearly define the obligations of e-commerce platform operators, including the need for platforms to inform consumers that data can only be collected and collated with their knowledge and consent. In order to prevent and punish "big data killing" effectively and protect the data rights and interests of consumers, it is necessary to make effective regulations on "big data killing". The responsibilities of the regulatory agencies need to be clarified. Under the background of big data, the application of data

network is more extensive, if it cannot be well regulated, the trouble it will bring will be huge. When the platform contacts with the consumer too much, the dispute question also appears subsequently, regarding the consumer, lacks the effective safeguard own rights and interests the way. Especially in the case of multi-supervision, it is easy to appear illegal, which cannot guarantee the efficiency and strength of supervision. Therefore, in the protection of consumer data rights and interests, it is necessary to clearly define specific administrative supervision departments based on the "E-commerce Law", to ensure the performance of government supervision duties to prevent the emergence of slackness, thus reducing the friction between consumers and platforms. Reduce disputes and accidents. Nowadays, disputes between platforms and consumers often occur, but due to the low value of commodities, consumers have a single way to safeguard their rights, etc., as a result, most consumers give up the protection of their own rights and interests. In this case, in order to effectively constrain the platform "big data killing familiar" phenomenon. To protect consumers' data rights and interests, the court can promote the relevant legal system and real case information and processing results through the Internet platform, from the current trial to clarify the platform of consumer data leakage related to the review of the outcome of cases and sentencing philosophy. Promote the popularization and perfection of the legal norms of consumer data rights. The platform that causes the relevant infringement is ordered to mark its own mistakes in a prominent place on this website, providing a reference for consumers and also serving as a warning to the platform.

### **C. Strengthen the enforcement and protection of consumer personal data by enterprises**

Under the law, there are limits to how much data the platform can collect and use, and they cannot be overextended. Reducing the flow of consumer data at source. The data security platform for consumer protection cooperates with the supervision of the data network supervision department, conforms to the provisions of the law, and complies with the obligations stipulated by the law to protect the data rights and interests of consumers. The platform needs to improve its own technical means to provide fundamental support for the protection of consumer data. At the same time the platform needs to enhance the importance of consumer data protection, proactive to protect the rights and interests of consumer data. The responsibility to improve the e-commerce platform through the enactment of legal provisions that clearly define the obligations of the platform and

that data should be collected through legitimate and legal means in accordance with the Data Security Act, and used within the limits of its use. In the process of data activity, the platform itself collects and uses the data of consumers, and at the same time needs to protect the data of consumers.

#### **D. Consummating the consumer data rights relief mechanism and the means**

Today's people also along with the big data time flood current gradually has been indifferent own data protection consciousness. The people around you tend not to value these things. As a result of consumer data leakage will inevitably let people lose more than they gain. Therefore, in the platform to register an account in the need to improve the information whether the need to screen out some unnecessary data. And the consumer also wants to analyze from own angle, pays more attention to own data privacy, enhances own safeguard the right consciousness. China should give consumers the right to enjoy their personal data as a civil rights and interests. The right of access, the right of reproduction and the right of deletion of personal information are specified in detail, and the corresponding supporting mechanism is established. And for the infringement of their own data rights and interests also need to attach importance to and actively put forward. In the era of big data, there are only two ways to protect rights, one is to find a platform to protect rights, the other is to solve the problem through judicial channels. Through the platform may often be platform kick ball, or even delay and other means, which leads to the rights and interests of consumers cannot be well protected. But through the judicial way this kind of event is time-consuming and laborious, will cause the massive judicial resources waste. This is the lack of a corresponding way to safeguard rights. We can try to set up the relevant mediation department for initial debugging. In the absence of a satisfactory solution to the premise before the court for the filing of an indictment. It is beneficial to broaden the ways for consumers to safeguard their data rights and interests. Reducing the waste of judicial resources. Save time for consumers and platforms. Secondly, consumers have too little knowledge of data rights protection, so we should push the platform to add relevant data rights protection instructions in user agreement, so that consumers can get more knowledge from more places. Consumer data rights can be protected through enhanced publicity and information push. Conclusion with the advent of the data age, e-commerce platforms and other enterprises have made rapid progress, and consumers' data rights and interests are vulnerable to illegal infringement, this is related to the imperfection of the relevant laws and the weak

binding force of the platform itself as well as the lack of supervision by government departments.

#### **V. Conclusion**

With the advent of the data age, e-commerce platforms and other enterprises have made rapid progress, and consumers' data rights and interests are vulnerable to illegal infringement, this has an inseparable relationship with the imperfection of the relevant laws, the weak binding force of the platform itself and the insufficient supervision of the government departments. And the relevant legal system and regulatory authorities have not kept up with the progress of the Times, resulting in consumers in the process of infringement cannot find fully applicable laws and regulations. Faced with this situation, we must pay attention to the legal protection of consumer data rights and interests, and actively improve the relevant information technology and legal system. Take the law as the criterion and the electronic commerce platform carries on the restriction and the sanction, provides the consumer with a safe and secure consumption environment. From the above discussion, we can see the importance of data in the era of big data. With the development of network technology, there will be more and more technologies available for e-commerce platform gradually, obviously slower than the development of network technology and the needs of the Times, which also requires that in this data age more attention should be paid to the protection of consumers' data rights and interests, and a law more in line with the background of the Times should be formulated on the basis of the existing law, let the pace of the law to the forefront of technological development, let us in the face of related issues to rely on. The Personal Information Protection Act and the Data Security Act, which are about to be passed in the near future, have greatly improved the shortcomings of our data networks, allowing more consumer data to be better protected in compliance with regulations. That the collection, circulation and application of data be in compliance with the law, that the platform provide clear legal provisions for the use of consumer data, and that the platform act under the supervision of the law, let it comply with the law more let it dare not to use big data advanced technology to access and use consumer data. To remind consumers to pay attention to their own data rights, only their own attention to better drive the platform and the attention of the law. For the regulatory authorities, they also need to better improve and enhance their own regulatory efforts. The loss of data in the network is a very important matter. They need to make clear their own regulatory direction and carry out timely rectification of the

platform's non-compliance, to better strengthen the strength of the regulatory authorities, so that consumers clearly know that the regulatory authorities are for consumers, but also from the other side to improve the credibility of the relevant units and improve the credibility of the country. In the era of data to protect consumer data rights and interests, is our biggest task.

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