Legal Regulation of E-commerce Credit

Ran Luo

Beijing Normal University, Beijing 100040, China

Abstract: In last years, China's online economy has developed rapidly, but the imperfect credit mechanism has become one of the important factors restricting the healthy development of e-commerce. This paper discusses the characteristics of e-commerce credit mechanism and uses the method of Game Theory to analyze the important point of the legal regulation. At the meantime, this paper proposes countermeasures to improve our country's legal system of e-commerce credit from the e-business credit information legal system, credit evaluation legal system, credit supervision legal system and disciplinary legal system.

Keywords: credit, credit information, credit evaluation, credit supervision

With the development of economy, credit plays an important role in market transactions. Whether the credit status is good or not determines the survival of enterprises, the quality of life of consumers and even the rise and fall of social economy. Therefore, all countries use laws to ensure the healthy operation of credit mechanism. All the economically developed countries or regions in the world have perfect credit legal system. The popularity of the Internet has made great changes in people's transaction mode. The rise of online shopping has made the credit mechanism face greater challenges. According to the 2019 (first) China e-commerce user experience and complaint monitoring report, the number of e-commerce complaints in China reached a new high in the first half of this year, among which network fraud is one of the three hot spots of user complaints. How to use legal means to escort its development has become an important problem to be solved urgently.

1. The necessity of legal regulation of e-commerce credit mechanism

1.1 Legal meaning of "credit"

The word "credit" can be explained from the perspectives of morality, economy and law. The first view regards credit as a kind of social evaluation, and holds that credit refers to a kind of social trust and evaluation enjoyed by credit subjects based on their performance ability — Such as Zhao Lei. The second view regards credit as a fact, and holds that credit is the situation in which the credit subject performs its legal or agreed obligations; The third view regards credit as a kind of "fact + evaluation", and holds that credit refers to the performance ability of credit subjects and their social evaluation — such as Zhao Xudong. The third view is highly recognized. This paper holds that credit refers to the ability of credit subjects to perform legal and agreed obligations and the evaluation of this ability by the society.

On the one hand, credit represents the ability of credit subjects to perform their obligations. This obligation includes legal obligations and contractual obligations. In the regulations on the administration of credit investigation industry of China, the contractual obligations belong to contractual obligations, while the obligations of the information subject to abide by administrative order, court judgment or ruling belong to legal obligations. Therefore, from a legal point of view, the ability to perform obligations in "credit" is, It includes the ability to perform legal obligations and the ability to perform agreed obligations.

On the other hand, credit is an evaluation of the ability of the credit subject to perform its obligations on behalf of the third party in some cases. For example, in laws and regulations such as the regulations of Shanghai Municipality on social credit, credit refers to the social evaluation of credit subjects; In article of the e-commerce law, credit also includes the social reputation of products or services.

E-commerce credit refers to the ability and social evaluation of e-commerce transaction subjects to perform their obligations.

1.2 Characteristics of e-commerce credit mechanism

Compared with the traditional credit mechanism, the sub business credit mechanism has the following characteristics:

First, information asymmetry intensifies. E-commerce increases the space-time and virtual nature of the transaction. Both parties to the transaction cannot understand each other's situation through on-the-spot investigation, but only through

the network.

Second, the credit evaluation system of e-commerce platform plays an important role. The self built credit evaluation system of e-commerce platform collects important credit information such as previous consumer evaluation and commodity sales, which often has a decisive impact on consumer decision-making.

Third, improper credit evaluation behavior occurs frequently. In practice, many operators cause evaluation distortion through malicious means such as "speculation".

Fourth, the dissemination of credit information is strong. Consumer evaluation has a great impact on operators.

Fifth, credit supervision is difficult. On the one hand, both parties may use technical means to commit fraud; On the other hand, the government's traditional way of supervision has been unable to meet the social needs.

2. Key points of legal regulation of e-commerce credit from the perspective of game theory

At present, the economic circle mostly analyzes the credit risk principle of e-commerce from three theories: information asymmetry theory, transaction cost theory and game theory. The analysis method of game theory is more flexible. This paper attempts to analyze the credit mechanism of e-commerce through the establishment of a simple model.

2.1 Hypothesis

Assuming that the main players of the game are operators and consumers, both parties do not know each other's decision before making a decision, and are supervised by your third party. If you break your promise, you will be punished.

2.2 Model establishment and game analysis

According to the previous assumptions, the game between operators and consumers can be regarded as a complete information static game. A1 and V1 are the benefits obtained by operators and consumers respectively when consumers buy and the operator chooses to keep promise, A2 is the benefits obtained by the operator when consumers buy and the operator chooses to break promise, and C is the punishment obtained by the operator when the operator breaks promise, It is the probability of being found when the operator breaks his promise. A1, A2, V1 and lC are greater than 0. The payment matrix of both parties is shown in Table 1 below.

Table 1. The payment matrix of both parties

operator \ consumer	purchase	not purchase
Keep word	A1,V1	0,0
Break word	A2-lC,-V1	-lC,0

According to the payment matrix, the strategy selection depends on the specific values of A1 and A2-lC. If we want to achieve the successful market effect of operators' trustworthiness and consumers' purchase, we should make A1³A2-lC through system design.

2.3 Expansion of game

In the previous hypothesis, the last decision of the other party in the game is not transferred to the game. The game between consumers and operators is a repeated game. On the basis of the previous assumptions, we can add the following assumptions: if a seller has multiple potential consumers, all consumers are regarded as one consumer, and consumers choose the "cold strategy", that is, in the repeated game, as long as the operator breaks his promise once, Then consumers will never buy the goods of this operator.

2.4 Conclusion

Through the analysis of the above game model, we can draw the following conclusions:

First, whether the reputation transmission mechanism is effective has a significant impact on the behavior of managers. We need to improve the existing e-commerce credit information legal system and other systems, and make rational use of big data means for scientific credit rating.

Second, whether the third-party supervision is effective has a significant impact on the behavior of operators.C stands for punishment for dishonesty and l stands for the probability that dishonesty is found by supervision. We should constantly improve the legal system of punishment for dishonesty and strengthen market confidence through reasonable division of rights and responsibilities.

3. Deficiency and perfection of credit information legal system

3.1 Deficiencies of China's credit information legal system

First, the scope of credit information does not match the market demand. Taking enterprises as an example, in the "national enterprise credit information publicity system", administrative punishment information belongs to the category of credit information publicity, but some violations of administrative regulations are not strongly related to credit.

Second, the legal regulation of credit disclosure of e-commerce platform is insufficient. E-commerce platforms, in order to attract more businesses, often can not take an objective and neutral position to disclose credit information. At present, China's e-commerce law, measures for the administration of online transactions, regulations of Guangdong Province on market supervision , regulations of Liaoning Province on the protection of consumers' rights and interests refer to the information disclosure system of e-commerce platform, but most of them are principled or encouraging provisions, and relevant national standards and industry standards are also non mandatory standards, lacking binding force and operability.

Third, the legal system of credit information sharing is not perfect. China's legal provisions on credit information sharing are mostly concentrated in the field of public credit information. Most of the data collection and sharing of government information and platform information are normative documents, such as the guiding opinions of the State Council on strengthening and standardizing supervision during and after events. The problem of lack or homogenization of information still exists, lack of operability and poor practical effect.

3.2 Perfection of credit information legal system

First, strengthen the market orientation of credit information transmission. The purpose of establishing credit information transmission mechanism is to encourage market subjects to be honest and trustworthy. It is suggested to clarify the scope of public credit information through legislation. The punishment should be mainly judged by the market, supplemented by government guidance, so as to avoid using joint disciplinary measures to replace the market mechanism, resulting in infringement of the credit rights and interests of natural persons, legal persons and unincorporated organizations.

Second, improve the legal system of credit information disclosure of e-commerce operators. Firstly, the scope of information disclosure should be expanded. Secondly, we should strengthen the guidance and supervision of the information disclosure rules of e-commerce platform.

Third, clarify the content and subject of compulsory disclosure of credit information. The credit information of operators in the platform is divided into three categories: basic information, transaction behavior information and transaction evaluation information.

Third, improve the legal system of credit information sharing. On the one hand, public credit information, bank credit information and e-commerce credit information are connected and shared. On the other hand, balance the public interest demand of social credit and the information right demand of market subjects.

4. Deficiency and perfection of the legal system of e-commerce credit evaluation

4.1 The deficiency of the legal system of e-commerce credit evaluation

First, the e-commerce evaluation system is unreasonable. There are three problems: e-commerce platform lacks neutrality, business platform evaluation index and credit model are not scientific enough, and evaluation standards are not unified.

Second, the law is not effective in governing improper credit evaluation. There are three main problems — the lack of systematic provisions on the improper evaluation behavior of managers, the lack of legal incentive mechanism, and the lack of definition and protection of credit right and evaluation right in China's law.

4.2 Perfection of the legal system of e-commerce credit evaluation

First, establish an independent third-party evaluation organization. Electricity evaluation institutions provide consumers with scientific and rigorous algorithms and models for reference to prevent them from making false evaluations.

Second, strengthen the guidance and standardization of the evaluation rules of e-commerce platform. The evaluation rules of e-commerce platform shall be stipulated and shall not harm the interests of consumers.

Third, establish systematic punishment provisions. The relevant provisions shall be unified and improved, and the system rules convenient for consumers to exercise their rights shall be established.

Fourth, establish an effective legal incentive mechanism. Operators often tempt consumers to give high praise with economic interests. The law may require consumers to report such acts and obtain greater rewards.

Fifthly, the credit right and evaluation right are defined as legal rights, and their right boundaries are clarified to balance

their interests.

5. Deficiency and perfection of the legal system of e-commerce credit supervision

5.1 Deficiencies of the legal system of e-commerce credit supervision

First, the regulatory model needs to be changed. The traditional supervision technology is difficult to investigate the Dishonesty Behavior of e-commerce. The introduction of big data and the introduction of Internet plus technology are imperative.

Second, the classified supervision system is incomplete. China has successively introduced the system of credit classification and hierarchical supervision, but the effect is poor. Personal credit and enterprise credit are not effectively integrated. Economic studies at home and abroad show that business owner credit is closely related to enterprise credit, especially the credit of small and medium-sized enterprises. However, the current dual track model of personal credit and enterprise credit in China makes it impossible to carry out effective classified and hierarchical credit supervision.

Third, the governance of e-commerce platform is not enough. "The network platform has an important impact on the enjoyment of rights and behavior choices of other subjects in cyberspace by virtue of technology and other resource advantages". Therefore, the law should strengthen the governance of e-commerce platform through system design. At present, China has initially established an e-commerce legal system centered on the e-commerce law, which is mainly reflected in the following two points: the provisions on the credit supervision obligations of the platform are not clear enough, and the responsibility design of the e-commerce platform is unreasonable.

5.2 Perfection of the legal system of e-commerce credit supervision

First, strengthen social co governance and promote coordinated supervision. The four plenary sessions of the 19th CPC National Congress in 2019 also proposed to give full play to the role of social governance.

As far as the legal system of e-commerce credit supervision is concerned, it should provide legal guarantee for strengthening corporate responsibility, improving the self-discipline of trade associations and expanding social supervision. In terms of industry self-discipline, we should encourage and guide the establishment and development of industry associations in the future. In terms of social supervision, we should improve the complaint efficiency and pay attention to the setting of incentive mechanism. At the same time, in terms of regulatory means, pay attention to the introduction of big data and promote the improvement of regulatory level with technological progress.

Second, improve the classified supervision system. The strength of credit supervision is determined by different credit ratings, and a reasonable reward and punishment mechanism is implemented.

Third, strengthen the governance and supervision of e-commerce platforms. First, establish a legal authorization mechanism and clarify the list of powers. Second, reasonably set the responsibilities of e-commerce platforms. At the same time, we should constantly optimize the government's legal supervision mechanism on e-commerce platforms and improve the supervision efficiency by using intelligent supervision and organizational improvement.

6. Deficiency and perfection of the legal system of punishment for dishonesty

6.1 The deficiency of the legal system of punishment for dishonesty

At present, China's legal mechanism of punishment for dishonesty has the following deficiencies:

First, there is a lack of legal guidance for market punishment. This lack of guidance is reflected in at least two aspects. One is the lack of obligation provisions for e-commerce platform. Second, the guidance of relevant disciplinary provisions is not enough. Although the relevant provisions of China's e-commerce law restrict the abuse of dominant position of e-commerce platform, the provisions are more principled and have different emphases.

Second, the legal regulation of administrative punishment is insufficient. It is reflected in the insufficient legalization of the "blacklist" system and the inadequate supporting construction. The guiding opinions on Comprehensively Strengthening the construction of integrity in the field of e-commerce has paid attention to this, but its effectiveness is limited.

6.2 Perfection of the legal system of punishment for dishonesty

First, establish a joint disciplinary alliance as a legal obligation of e-commerce platforms to promote information sharing among e-commerce platforms.

Second, the standard contract text will be issued to specify the contents of the dishonesty punishment contract between the e-commerce platform and the operators in the platform.

Third, the "blacklist" system that restricts the rights of dishonest people can only be set by law.

Fourth, embed national credit information in the platform as a legal obligation of the e-commerce platform to enhance the preventive function of credit punishment in advance.

References

[1] Introduction to game theory, written by Steven Tediris and translated by Li Jingkui, Beijing: China Renmin University Press, 2014.
[2] Fang Lehua, legal thinking on the credit system of market subjects, Beijing: Law Press, 2017.
[3] Chen Xianyou, research on E-commerce credit evaluation and governance, Beijing: China financial and Economic Publishing House, 2014.
[4] Liu Mingqing: on the improvement of the legal mechanism of e-commerce credit, Oriental Law, 2019, issue 2.
[5] Zhao Xudong: definition and system composition of commercial credit, Journal of Zhejiang University of technology and industry, No. 5, 2019.
[6] Shen Yilong: on administrative joint punishment for dishonesty and its legal control, jurist, 2019, issue 4.
[7] Zhu Yue: on the credibility of comprehensive credit service institutions under the background of big data, credit investigation, issue 4, 2019.
[8] Yang Dong: legal regulation of Internet finance, Chinese Social Sciences, 2015, issue 4.
[9] Cao Xingquan: embedding of industry self-discipline in enterprise credit supervision, law forum, Vol. 29, No. 2, March 2014.
[10] Zhan Zhongle, Zhao Xuan: the ideal and reality of the rule of law in credit supervision, research on China's business administration, 2015, issue 5.
[11] Wang xizn: Research on jurisdiction allocation of online transaction supervision, Oriental Law, 2018, issue 1.
[12] Liu Junhai: credit responsibility: the fourth growing legal responsibility, law forum, Vol. 34, No. 6, November 2019.
[13] Wang xizn: Research on the legal attribute of the "blacklist" system and its administrative regulations, Journal of Southeast University, Vol. 21 supplement, June 2019.
[14] Zhang Zheng, Zhang Lili: disclosure of credit information, definition and of private information Research on data ownership, credit investigation, No. 10, 2019.
[15] Wang Mengdi: improvement of credit evaluation system of e-commerce platform, people's rule of law, 2018, issue 20.
[16] Zhao Fuchun and Wang Xiaofei: Research on the business model of big data credit investigation in China, credit investigation, issue 11, 2019.
[17] Michael E McEneney & Karl E Kaufmann, Fair (Credit Reporting Act Development.
[18] James G.Barnes & James E. Byrne, E-Commerce and (Letter of Credit Law and Practice, The International Lawyer. 35Int'l L. 23 (2001).
[19] Lawrence J. Trautman, E-Commerce, Cyber, and Electronic Payment System Risks: Lessons from PayPal, 16 U.C. Davis Bus. L.J. 261 (2016).
[20] Alexandra P. Everhart Sickler, The (Un)Fair Credit Reporting Act, 28 Loy. Consumer L. Rev. 238 (2016).
[21] Joel R. Reidenberg, E-Commerce and Trans-Atlantic Privacy, 38 Hous. L. Rev. 717 (2001).