

Civil Law Protection of Online Consumer Privacy

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Abstract: With the continuous progress and development of science and technology, the popularization and application of network big data and artificial intelligence technology affects our life all the time, which allows consumers to enjoy efficient and convenient services and also boosts the growth of social economy. In the context of big data, consumer privacy is often infringed upon, and the design of a civil law protection system for online consumers' privacy is particularly urgent in this context. In view of the problems of the civil law protection of privacy in China's network era, we propose to improve the civil law protection system of privacy in China's network era according to the specific situation of China and the mature legislation concept of foreign countries.

Keywords: Internet era, Privacy, Civil law protection.

1. The Current Situation of China's Online Consumer Privacy Protection

Based on the provisions of the Civil Code, the so-called network privacy is an extension and expansion of the traditional right to privacy in the network, which refers to a kind of personality right that the peace of private life and private information, private space and private activities enjoyed by natural persons in the network world are protected by law and not infringed by others in the form of spying, intrusion, disclosure and public. [1] The background of the network era has been analyzed by big data thus improving the utilization of information, while promoting the mechanism of mutual transformation of information resources and economic benefits. The potential advantages of big data have changed the existing lifestyles and habits, and while it brings convenience, it also brings many challenges. Because of the hidden and virtual nature of the network and other characteristics of the Internet of Things and computer technology, it is difficult to protect the privacy of online consumers. For example, online shopping operators adopt precise marketing methods to capture consumers' needs easily and quickly and use their personal information for data analysis, which to a certain extent hinders the vitality of consumption and simultaneously restricts economic development.

1.1. Easy access to private information

In the process of collecting and using personal privacy information, there are problems of non-compliance and illegality. In the Internet era, "operators" can easily grasp the personal privacy of "consumers" not related to transactions. The right to privacy is a personal right that covers four major aspects: personal, communication, information, and place. Due to the inequality of information between "consumers" and "operators", consumers are in a vulnerable and passive position, which makes it difficult to protect consumers' personal privacy. In the Internet era, consumers are often required to complete a series of registration information in order to complete online transactions, and this information often contains personal privacy of consumers, which increases the risk of leakage of consumers' personal privacy. In this process, network operators may use technologies such

as network big data and artificial intelligence to intercept the content of personal private messages, use relevant technologies to monitor and locate "consumers", illegally collect consumer information, and even deceptively promise "consumers" free goods and services in exchange for access to consumers' private information. [2]

1.2. Diverse and scattered regulatory bodies

Consumers" are at a disadvantage in the online consumer process, as unscrupulous merchants often expose consumers' privacy to the public eye without leaving a trace, and violators are less aware of the law and have a sense of luck. In practice, although there are institutions that are empowered to supervise, there is a lack of a precise subject of accountability as explicitly provided by law. Thus, although it is the era of network information sharing, the responsibility of protecting the privacy of online consumers should be clearly specified.

1.3. Weak awareness of rights protection

Privacy is included in personal information, and the relationship between the two is that of inclusion and inclusion, which makes it impossible for consumers to distinguish personal information from privacy and increases the risk of privacy leakage. Privacy information has a large economic value after processing, but "consumers" want to defend their rights after being infringed by unscrupulous businesses, considering the high cost and difficulty and do not know what way to defend their rights, and eventually all in vain. The unscrupulous businesses use the network has the characteristic of concealment, using an indirect way to intercept personal privacy information to avoid the network police tracing, not only makes the "consumers" neglect to defend their rights, but also allows unscrupulous businesses to escape the legal sanctions.

1.4. The subject of tort liability is not clear

According to the relevant laws, the main subjects of network infringement are network service providers, network content service providers and network intermediary service providers. The disadvantage is that it is difficult to determine the responsible parties when online infringement occurs and they are prone to shift the blame to each other, which increases the burden of the enforcement court later. In the circulation and virtual network space, if infringement occurs,

it is still difficult to accurately determine the subject of responsibility, and the road to consumer rights is even more difficult.

2. Overseas Experience of Consumer Privacy Protection

2.1. USA: Industry self-regulation

The protection of online privacy in the U.S. is mainly reflected in industry self-regulation, with each industry taking the initiative to formulate norms and standards for online behavior, clarify its position, and regulate the behavior of personal privacy in terms of collection and utilization, while restraining industry behavior with certain codes of conduct or standards to achieve the protection of privacy. The development of self-regulatory codes and interconnection by industries of the same nature has been recognized by the majority of consumers. The standards of self-regulatory codes are jointly developed by the same industry, and self-regulatory organizations voluntarily join and all members voluntarily comply with the standards, thus ensuring the credibility of the network and a relatively strong self-regulation.

2.2. Japan: Eclecticism

The protection of privacy on the Internet in Japan is based on the desire to both ensure the flow of information and to better protect the privacy of individuals. A large number of consumer organizations exist in Japan, one funded by government agencies and the other a private organization formed by a combination of consumer associations and other consumer groups. They play a huge role in defending consumer rights, protecting the privacy of online consumers, and improving the quality of transaction services. The Personal Information Protection Law was introduced, a law closely related to the law on the protection of information security of online privacy, which stipulates the rights and obligations of government agencies and regulates the policies and principles for protecting the privacy and security of online users constantly looking for a balance between the legitimate rights and interests of online privacy and the protection of free flow, seeking a win-win situation.

3. The Regulatory Path of Civil Law Protection of Online Privacy

3.1. Accelerate the creation of online consumer privacy protection legislation

To accelerate the regulation of China's network consumption in the general manner and principles of privacy legislation. The "Network Security Law" marks a big step forward for China's network security legislation. In order to create a civilized and healthy atmosphere for network transactions and provide a good trading platform, there is an urgent need to develop special laws and regulations, which is also necessary to comply with the network era. The E-Commerce Law makes important provisions on how to protect user information, such as Article 23, which makes declarative protection requirements for user information. After all, personal information is the most sensitive type of all user data, and it is also the pavement for the introduction of the Personal Information Protection Law. [3] It is also necessary to pay attention to the adjustment of online consumer privacy, and to form general rules and principles of

consumer privacy legislation in online transactions. In addition to being based on national conditions, we must also actively pay attention to international legislative trends and legislative developments, and absorb feasible experiences and methods. We should introduce international treaties, improve the legislation based on the EU model of privacy protection, and refer to the overseas models of online consumer privacy protection according to the actual situation in China, and provide comprehensive and detailed regulations on the scope of authority, responsibility and corresponding remedies for privacy protection, so as to make the procedure for the protection of rights easy and make consumers dare to defend their rights. [4]

3.2. Optimize the regulatory system

First, unify regulatory standards. In the Internet era, as we face different and complex environments, the development of unified standards for measuring and regulating violations of consumers' online privacy can reduce conflicts and disputes among regulators. At the same time, it can also improve regulatory efficiency and indirectly reduce the occurrence of cases of infringement of consumers' online privacy. Second, improve and refine regulatory initiatives. The following two aspects can be improved today: 1. active supervision. In this way, the exercise of rights is vested in the Internet consumer, who has the right to decide on his or her own whether personal privacy information that he or she does not want to be known and is not relevant to others or the public interest is collected and used by the platform, app software, or operator, and conversely, when the operator plans to use analysis to collect information about the Internet consumer, he or she needs to inform the consumer in advance to seek his or her subjective will, and at the legislative level The right to self-information regulation and inquiry is given to online consumers.

Legal supervision. Actively create a strict review mechanism and dynamic sampling supervision to avoid false real names of network operators, and at the same time respond to the popular use of network big data, increase the investment in hardware and software for legal supervision departments to give technical support to violations of online privacy, regularly carry out training for supervisory technicians, strengthen supervisors' learning of relevant laws and master common ways of violating online privacy, so as to create A professional, digital Internet supervision team to monitor the purity of the Internet environment and from time to time to conduct security assessments of major software and platforms, and to conduct dynamic spot checks on platforms that have the potential to leak privacy. At the same time, we may consider increasing the punishment for infringing subjects in online consumption to curb the occurrence of infringement of consumers' privacy in the context of big data.

3.3. Clearly define the legal obligations of operators

The Civil Code stipulates that "Where the law provides for the protection of data or virtual property on the Internet, it shall do so in accordance with its provisions." However, it juxtaposes data and virtual property, and it is not clear what the relationship between the two is and whether data is virtual property. Whether personal privacy information as a separate civil rights to be protected, so as to provide more channels of relief, precise provisions of the network operators due diligence, are issues to be considered at this stage. Because in the era of network big data consumers through the network

platform for transactions, network operators have the obligation to keep consumer information confidential, but because the law does not raise this provision to a legislative level, creating the opportunity for them to avoid legal sanctions, it is necessary to make clear legislative limits. [5]

3.4. Remedies for deficiency infringement

The relevant legal responsibilities given to network operators in the legal provisions should be specifically defined in terms of their infringement mode, type and standard definition, and make practical and operational provisions in terms of refinement of liability and remedial damages for infringement, etc. A clear institutional construction in terms of consumer rights, prosecution and claims helps to simplify the procedure and better guide consumers to defend their rights. Consumer privacy can only be used according to the consent of the consumer and for reasonable purposes, and the use of personal privacy data is not allowed to exceed the scope of authority, and the legislation must be immediately and effectively sanctioned if the prior agreement is violated. The following ways of liability should be clarified for infringement of consumers' online privacy: First, cessation of infringement, which is primarily intended to prevent further expansion of the infringement. Second is to apologize, the pure material relief is not enough to make up for the spiritual loss, in this way the victim gets spiritual comfort. Third is to eliminate the impact, restore reputation, life is not uncommon because the network exposed its privacy caused by the tragic case of giving up life, warning lawmakers in the development of laws and regulations to focus on the spiritual construction of the tilt. Fourth, compensation for damages, mainly due to infringement of the consumer's right to online privacy resulting in property damage and moral damage, property damage is visible, while moral damage should be problem-specific analysis, not a one-size-fits-all hierarchical division. At the same time the above four ways can not only be simply set out in the provisions, should also use the existing network of big data and artificial intelligence for digital modeling, summary judgment of its application of the circumstances, conditions, etc., especially to focus on the treatment of consumers in the spiritual level after the infringement of the model.

3.5. Optimize the rules of burden of proof

The principle of reversal of the burden of proof is applied to the protection of privacy in the online context, so that the network operator bears the main burden of proof and vice versa. The principle of reversing the burden of proof is in line with the principle of the burden of proof in special cases under the current law, and vice versa, as online consumers only need to prove the fact that they have suffered damage. At the same time, due to the weakness of electronic data and the ease of tampering, it is necessary to use blockchain technology to preserve the user's information while protecting the privacy of online consumers, so as to ensure the authenticity of the evidence, and then combine the advantages of the Internet Court to reduce the cost and difficulty of evidence collection for the defense of online consumers through online trials, so that they dare to take up the legal The Internet Court will be able to reduce the cost and difficulty of evidence collection, so that consumers will have the courage to take up the law to defend their legitimate rights. [6]

3.6. Drawing on the privacy industry self-control protection mechanism

Strengthen the industry self-control and improve the supervision mechanism can learn from the United States industry self-control mechanism, China's recognized industry standards are at an early stage, the credibility of industry self-regulatory organizations is still relatively weak, can consider creating a self-regulatory organizations of various industries to protect the privacy of online consumers, aimed at guiding the protection of privacy, supervision of consumers in the process of transactions, and at the same time through publicity to improve consumer awareness in the maintenance of personal information The awareness of consumer rights in the protection of personal information. At the same time, e-commerce companies can develop their own privacy policies according to their own actual situation, but should disclose them to the community in a timely manner with a view to realizing their own privacy policies and privacy statements.

3.6.1. Encourage operators to self-regulate and improve the after-sales evaluation system

Industry self-control model through mature network security protection measures, consumers can voluntarily choose whether to allow monitoring of their personal privacy information, and take the initiative to improve their own awareness of their rights. Network operators should also take the initiative to switch to the consumer's point of view and take the initiative to formulate a privacy policy, so that consumers are aware of its collection and handling of users' personal privacy information. The privacy policy should be complete and specific to the maximum extent possible, so that consumers are in an advantageous position, so that the legitimate rights and interests of consumers are regulated in the hierarchical protection circle of laws and regulations. In this way, network operators can protect consumers' personal privacy with a strict privacy policy, so as to establish a good online trading relationship with consumers and thus promote the process of online privacy protection.

3.6.2. Improve the industry evaluation rating mechanism

The core of industry self-control is to require operators to establish the belief that the rights and interests of consumers are paramount, and to consciously stand in the position of consumers for the sake of consumers, while "the customer is God" also applies to network transactions, to be able to conscientiously implement and actively enforce the corresponding industry systems and regulations, and to actively obey the supervision and guidance of industry associations at all times, Guidance, for the non-implementation of the system and regulations of internal members to have the corresponding specific sanctions, such as warnings and certain fines. In China, joining the industry self-regulatory organizations is not mandatory, when the enterprise through the declaration, then the credit rating assessment, most of the e-commerce companies and individual network operators today are in the edge of the credit evaluation mechanism, which is the biggest hidden danger for the overall industry credit. Therefore, it is especially important to establish and improve laws and regulations related to the protection of network privacy information, regulate the purpose, use and scope of the collection of personal privacy information of consumers by network operators, create a punitive compensation mechanism for the protection of personal privacy information, and record it in the personal integrity file. Strengthen

publicity and guidance, gradually expand the scope of participation, and make them realize that a good credit rating will bring them various benefits, thus achieving a win-win situation. [7]

4. Conclusion

The existing legal system is far from being able to meet the needs of the rapid development of e-commerce, and the protection of online consumers' privacy rights is still facing unprecedented challenges. At this stage, the civil law protection of consumer privacy in the Internet era cannot be achieved overnight, and we still need to do our best to build a perfect legal system for the protection of consumer privacy on the Internet in China. However, the interests of all parties lurk behind the legislation, so it is important to balance the interests of all parties while establishing a sound legal system. In the legislation to strengthen the construction of the system of online consumer privacy, in the supervision of the responsibility of the use of linkage supervision mode, enhance the awareness of consumer rights, and at the same time clear complex infringement subject and remedy, in order to maintain the Internet era consumer privacy rights from

infringement.

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