

Legal Issues of Consumer Rights Protection in China's Cross-Border E-Commerce under the RCEP Framework

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Abstract: This research examines legal deficiencies in China's cross-border e-commerce consumer protection framework under the Regional Comprehensive Economic Partnership (RCEP). It focuses on three core issues: fragmented jurisdiction in cross-border disputes, the lack of unified legal status and procedural standards for online dispute resolution (ODR), and vague legislative provisions on personal information protection, particularly regarding consent withdrawal mechanisms. Through textual analysis of Chinese laws and RCEP obligations, the study identifies critical inconsistencies between domestic legal norms and regional expectations. Targeted legal reforms are proposed, including the legalization and standardization of ODR procedures, clarifying informed consent rules for personal information protection, and legislative support for international cooperation among RCEP member states. The research also explores the potential role of smart contracts and blockchain in protecting consumer rights. These measures contribute to the construction of a harmonized legal environment for cross-border e-commerce consumer protection and support China's alignment with RCEP's digital trade framework.

Keywords: cross-border e-commerce, consumer protection, RCEP, online dispute resolution, personal information protection

1. Introduction

The Regional Comprehensive Economic Partnership (RCEP), signed in 2020 by fifteen Asia-Pacific countries including China, is the largest free trade agreement in the world. It plays a vital role in regional economic integration and includes a dedicated chapter on e-commerce. As one of the world's largest digital economies, China has experienced significant growth in cross-border e-commerce. This growth has been accompanied by an increasing number of legal issues concerning consumer rights, especially in cross-border transactions. Chinese consumers often face risks such as fraud, privacy infringement and limited dispute resolution options. These challenges highlight the gap between China's domestic legal framework and RCEP's standards. As RCEP aims to create a fair and secure digital trade environment, it is necessary to examine how China can align its legal regime with RCEP provisions to enhance consumer protection in cross-border e-commerce.

2. Legal provisions on consumer protection in cross-border e-commerce

2.1. Legal framework for consumer protection under China's domestic laws

The core legislative documents of China's e-commerce legal system include the Consumer Rights Protection Law and the E-Commerce Law, which together define consumers' fundamental rights and business operators' obligations in digital trade. These are further supplemented by administrative regulations such as the Measures for the Supervision and Administration of Online Transactions. However, there were no unified regulations for the protection of consumer rights in cross-border e-commerce transactions, which were mainly adjusted through foreign-related civil law norms.

The Consumer Rights Protection Law provides for the right to information, fair trade, and compensation. Article 28 imposes an obligation on online operators to disclose true and complete product and service information, which is essential in an online environment where goods cannot be directly inspected. Article 24 safeguards the consumer's right to return or exchange defective goods. The E-Commerce Law builds upon these rights by specifying information disclosure obligations and prohibiting misleading practices. Article 39 protects consumers' right to evaluate products, and Article 49 prevents businesses from using standard contract clauses to avoid or reduce liabilities. These provisions reflect China's commitment to protecting online consumer rights.

2.2. Dispute resolution mechanisms in cross-border e-commerce

Traditional mechanisms for dispute resolution, including transnational litigation, arbitration, and mediation, face challenges related to jurisdiction, cost, and enforceability. Since these mechanisms are often complex and costly, they are not well-suited for cross-border online shopping disputes, which typically involve relatively small amounts. In this context, Online Dispute Resolution (ODR) has gained prominence as a faster and more accessible solution. ODR mechanisms in China can be categorized into internal platform ODR, third-party ODR, and official ODR led by courts.

Internal ODR platforms, such as JD International Open Platform, follow a tiered structure of negotiation, platform intervention, and final resolution, using digital transaction data to assess liability. Third-party ODR institutions, such as the B. Ming Cross-Border Commercial Dispute Online Resolution Platform, offer efficient and flexible dispute resolution services by integrating negotiation, mediation, and arbitration into a digital framework. Official ODR is exemplified by internet courts in Hangzhou, Beijing, and Guangzhou. These courts support fully online litigation processes including case filing, digital evidence submission, video hearings, and online judgment delivery. Their efficiency make them suitable for low-value, high-volume disputes common in cross-border consumer contexts.

2.3. RCEP standards for online consumer protection

The RCEP's online consumer protection provisions establish a structured and multi-faceted framework encompassing online consumer rights, personal information protection, and the regulation of unsolicited commercial electronic messages. These provisions are designed to create a transparent, fair, and trustworthy environment for electronic commerce. Article 12.7 requires each Party to adopt or maintain laws or regulations to protect consumers from fraudulent and misleading practices in online commerce, while also ensuring that such information, including available remedies and compliance requirements, is publicly accessible.

Regarding personal information protection, Article 12.8 mandates that each Party maintain a legal framework to safeguard users' personal data, while encouraging alignment with international standards and promoting the publication of corporate privacy policies. Moreover, the RCEP

underlines the importance of intergovernmental cooperation for cross-border data protection. To address the issue of unsolicited commercial messages, Article 12.9 obligates Parties to implement mechanisms such as requiring consent from recipients or facilitating opt-out measures, while also providing avenues for recourse and encouraging cooperation in enforcement.

3. Challenges and limitations in cross-border e-commerce consumer protection

3.1. Diversity of legal systems

Cross-border e-commerce exposes consumers to complex legal environments due to differences in national regulations, enforcement capacities, and definitions of misconduct. The same commercial behavior may be considered fraudulent in one country but legal in another, creating uncertainty in legal remedies and allowing opportunistic merchants to evade stricter obligations by choosing jurisdictions with weaker oversight. This phenomenon, known as legal arbitrage, significantly weakens consumer protection and increases the cost of rights enforcement for both consumers and platforms.

Furthermore, the inherent characteristics of the internet break the traditional physical territorial and national boundaries, presenting a ‘de-territorialized’ nature, making it difficult for the traditional judicial jurisdiction logic based on the territorial principle to cope. Globally, the lack of uniform jurisdiction rules further amplifies the complexity of cross-border disputes. Determining applicable jurisdiction becomes difficult when a single transaction may involve multiple countries across the sales, payment, and delivery processes. Due to the differing standards for recognizing and enforcing foreign court judgments in various countries, there are also numerous obstacles to enforcing judgments in the merchant’s country.

3.2. Limitations of China’s ODR mechanism

China’s online dispute resolution framework lacks unified legislation and standardized procedural rules. Although Article 63 of the E-Commerce Law permits platforms to establish ODR mechanisms, it provides only principled guidance without enforceable detail. The standards of internal ODR for different e-commerce platforms are not unified, and the standards for different types of ODR are also not unified. This is not conducive to users and administrative departments’ supervision and management, and in the long run, will not be conducive to the development of online dispute resolution mechanisms [1].

In practice, public confidence in ODR mechanisms remains low. Consumers often lack awareness of available platforms. And the lack of trust also stems from doubts about the neutrality of the platform and the fairness of the procedure, especially when platforms serve both as commercial operators and dispute resolvers. Many mediators lack legal training, while platform interfaces are overly complex or non-transparent, further discouraging engagement and reinforcing preference for traditional remedies.

ODR outcomes also face enforcement difficulties. The issue of recognition and enforcement of foreign judgments in China depends on whether there are multilateral international treaties, bilateral judicial assistance treaties, or reciprocity principles between the two countries, which creates difficulties in recognizing online litigation judgments. Online mediation and online arbitration do not have a clear legal status in the current mediation and arbitration legislation. There are issues of jurisdictional ambiguity in arbitration awards, the uncertainty of the place of arbitration poses challenges to the enforcement of arbitration awards. What’s more, online mediation lacks legal enforceability unless confirmed by courts. These factors hinder ODR’s effectiveness in cross-border consumer protection.

3.3. Inadequate personal information protection

China's personal information protection related laws largely adopt principle-based provisions without detailed normative standards, making it difficult to effectively curb the malicious abuse and infringement of consumer personal information. The identifiability of personal information is the basis of its empowerment. Both relevance and identifiability are essential criteria that personal information must simultaneously meet. Although the Regulations on the Scope of Necessary Personal Information for Common Types of Mobile Internet Applications defines the scope of 'necessary personal information' for commonly used apps, this enumeration cannot cover all information processing scenarios. It also does not address the theoretical nature of the obligation for personal information subjects to provide 'necessary personal information'. The meaning of necessity remains vague and needs improvement.

Online shopping platforms frequently fail to fulfill transparency obligations in data collection and usage, consumers are often unaware of the scope and purpose of data processing. Data may be collected and stored insecurely, leading to risks of leakage and abuse. The principle of informed consent, as an important principle for handling personal information, is also challenged by 'bundled consent'. Platforms require consumers to accept all terms in the privacy policy to access services, preventing them from agreeing to specific data uses only. Additionally, privacy policies are often lengthy, complex, and written in inaccessible language, which discourages consumers from reading and understanding them, thereby increasing the risk of improper data use. While the right to withdraw consent is established under Article 15 of the Personal Information Protection Law, implementation remains weak. The absence of a clear standard for what constitutes a 'convenient' withdrawal method, along with vague provisions on deletion obligations, results in practical barriers to exercising this right. Information processors, considering their interests and actual costs, typically choose to refuse withdrawal, resulting in the 'withdrawal consent dilemma'.

4. Recommendations for protecting cross-border e-commerce consumers under the RCEP framework in China

4.1. Enhancing cross-border consumer dispute resolution

The principle of party autonomy is the basis of traditional ADR jurisdiction and is also central to determining ODR jurisdiction [2]. Parties may pre-define jurisdiction in contracts or platform service agreements, or negotiate before handling disputes. This requires avoiding invalid standard clauses as much as possible in the initial stage. This approach can help overcome the limitations of traditional jurisdiction rules that are based on territorial connections. Moreover, the Denationalization Theory can be adopted to bypass conflict of law rules, reducing judicial supervision of arbitration by the courts of the arbitration location and entrusting moderate supervision to the country of recognition and enforcement.

China's ODR system lacks unified legal status and procedural clarity, hindering its development. The legalization of online mediation and online arbitration can be achieved by amending existing laws or issuing judicial interpretations. And the procedural rules for each type of ODR should be improved. Recommended model process templates can be issued, detailing the procedures for complaints, acceptance, resolution, and enforcement of outcomes, offering professional guidance for parties involved in the platform [3]. A unified national ODR platform with multilingual interfaces is essential. This will promote standardization, increase enforceability, and lay the foundation for establish a regional ODR framework under the RCEP. Ultimately establish an online dispute resolution system where the internal ODR of e-commerce platforms serves as the primary

source for conflict resolution, a unified ODR platform acts as a supplement, and online litigation serves as the final adjudication.

Improving the accessibility and credibility of ODR in China requires the establishment of unified access standards for ODR institutions, enhancement of practitioner professionalism, and the safeguarding of platform neutrality through transparent procedures and independent third-party oversight. Public trust can be fostered by publishing resolution data, disclosing information about ODR entities and promoting ODR through government channels. Additionally, blockchain and smart contracts should be adopted to secure digital evidence and automate verification, while adjusting the burden of proof in favor of consumers to ensure fair and efficient resolution in cross-border e-commerce disputes.

To ensure enforceability of ODR outcomes in cross-border e-commerce, a multi-level enforcement system should be established with network force enforcement as the main part and social force enforcement as the supplementary part, with judicial enforcement as the final guarantee. Trust mark certification scheme and the e-commerce platform penalty system incentivize voluntary compliance, while security deposits, insurance system, the 'platform advance payment' model, and credit card payment return mechanism models provide financial safeguards. These layered mechanisms, if selectively applied based on transaction types and dispute value, can strengthen ODR credibility while balancing merchant burden and consumer protection.

4.2. Strengthening the protection of consumers' personal information

It is not advisable to overly narrow the scope of consumer personal information in judicial practice. When determining the relevance criterion for personal information, China should absorb and incorporate reasonable factors from both the three-element standard of EU law and the proximity test standard proposed by UK courts [4]. Personal browsing data, search records and inferred profiles should be regarded as personal information. After defining the boundaries of personal information, it is necessary to further clarify the obligations of information processors involved in online shopping. Platforms may bear contractual liability when data is used beyond authorization, while joint processors such as e-commerce, payment, and logistics entities may be held liable for torts.

Strengthening consumer autonomy in cross-border e-commerce requires the replacement of bundled consent with a tiered consent mechanism. According to the results of the risk assessment, the final risk levels are divided into low, medium, and high categories [5]. Implement consent exemptions in low-risk scenarios, but the circumstances under which consent exemptions apply should be clearly defined and limited. Limited general consent should apply to medium-risk levels, while specific consent should apply to high-risk levels. Platforms should improve transparency through concise, accessible privacy notices and real-time data-sharing prompts. Consumers can be able to refuse automated decision-making, such as personalized pricing or recommendations, and withdraw consent easily, with safeguards against technical or contractual obstructions.

China's adoption of a principle-based framework for personal information protection reflects alignment with the EU's GDPR, emphasizing legality, transparency, and purpose limitation. However, further improvements are needed in empowering data subjects and ensuring the independence and professionalism of data processors, and the rights and obligations of different data subjects need to be detailed. Government authorities must improve full-chain administrative oversight and integrate preventive and corrective mechanisms to ensure effective protection and accountability across all stages of personal data processing.

4.3. Promote cross-border cooperation among RCEP member countries

Effective consumer protection in cross-border e-commerce necessitates harmonization of legal standards among RCEP members. While RCEP allows flexible implementation, members can adopt transitional arrangements referencing international frameworks like the WTO and UNCITRAL to establish minimum protections. RCEP member countries should progressively harmonize consumer protection standards through mutual recognition, flexible arrangements, and cooperation with international organizations, thereby fostering a unified and inclusive legal environment for cross-border e-commerce.

5. Conclusion

This research examines the shortcomings of current Chinese laws on consumer protection in cross-border e-commerce under the RCEP framework. It mainly discusses legislative deficiencies in dispute resolution and personal information protection, and proposes solutions. The recommendations include promoting the legalization and standardization of online dispute resolution mechanisms, clarifying informed consent rules for personal information and data processing obligations of e-commerce platforms, as well as strengthening international cooperation among RCEP member countries. Through these measures, consumer protection can be enhanced, making a meaningful contribution to establishing a fairer cross-border digital trade environment in the Asia-Pacific region.

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