The Criminal Regulation of Organized Fake Transactions and Inflated Reviews

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Abstract: This paper examines the phenomenon of review manipulation in e-commerce, which significantly undermines consumer rights, disrupts fair competition, and poses a substantial threat to platform credibility and the healthy development of the market. The inadequacy of current regulatory measures necessitates the urgent involvement of criminal law. Through an analysis of the real-world harms caused by review manipulation and the necessity of criminal law regulation, this paper highlights theoretical justifications for criminal intervention and identifies inconsistencies in the classification of offenses and sentencing standards in judicial practice. Furthermore, the paper provides a comprehensive legal analysis of review manipulation, including its classification, characteristics as a cybercrime, multi-dimensional harm to legal interests, and the multifaceted considerations of its criminal regulation. The study identifies existing challenges in the application of relevant offenses, including illegal business operations, false advertising, and damage to business reputation, and explores their limitations. Based on these findings, the paper advocates for legislative reform to establish a distinct offense targeting organized review manipulation, emphasizing the importance of civil and administrative remedies, technological innovation by platforms, and the supplementary role of criminal law as a last resort. Practical recommendations are provided to improve regulation at legislative, judicial, and societal levels, aiming to offer a robust framework for combating review manipulation and ensuring fair competition in e-commerce.

Keywords: review manipulation, illegal business operations, false advertising, criminal law interpretation

1. Introduction

1.1. Research Background

The rapid development of e-commerce has become a key driver of economic growth. According to the *Digital China Development Report (2022)*, the total volume of e-commerce transactions in China steadily increased from 2017 to 2021, reaching an impressive online retail sales figure of 13.1 trillion RMB in 2021. This highlights e-commerce's central role in stimulating domestic demand and advancing the digital economy.

However, the phenomenon of fake transactions and inflated reviews, commonly known as "刷单炒信" (shua dan chao xin), has emerged alongside this growth. Through fabricating transactions, merchants artificially boost sales volumes and positive reviews to attract consumers. This behavior

is prevalent on platforms such as Taobao and Pinduoduo, particularly among newly established stores, which often face difficulties gaining recommendations due to initial low sales and credibility. Consequently, many merchants resort to such deceptive practices.

Fake transactions and inflated reviews not only infringe upon consumer rights and undermine fair market competition but also disrupt normal online business operations, posing a significant threat to the healthy development of e-commerce. Despite efforts by e-commerce platforms and regulatory authorities to curb such activities, the measures have proven to be less effective than anticipated. Calls for the intervention of criminal law have grown louder, yet judicial practice reveals inconsistencies in adjudicating these cases, with similar cases often receiving different judgments. This underscores the urgent need for an in-depth examination of the criminalization mechanisms for such behaviors.

1.2. Research Significance

The study of the criminal regulation of fake transactions and inflated reviews holds significant importance in multiple aspects:

First, from the perspective of protecting consumer rights and maintaining market order, such behavior severely infringes upon consumers' right to be informed and their right to fair trade. It misleads consumers into purchasing goods based on false information, potentially resulting in poor-quality products. Furthermore, fake transactions and inflated reviews disrupt fair market competition, placing honest merchants at a disadvantage while enabling unscrupulous ones to gain undue advantages through falsified data. By exploring the criminal regulation of such conduct, this study aims to clarify the scope and conditions of criminal law application, thereby effectively safeguarding consumer rights, preserving market order, and promoting the healthy development of the e-commerce market.

Second, improving the legal and regulatory framework for e-commerce is another key objective of this research. The rapid development of e-commerce poses new challenges for legal systems, and existing laws and regulations are insufficient to address the issue of fake transactions and inflated reviews. This study examines the problem from the perspective of criminal law, offering valuable insights for enhancing the e-commerce legal framework. By addressing the shortcomings of current regulations, it seeks to provide a solid legal foundation for the sustainable growth of the e-commerce industry.

Finally, this research contributes to the development of criminal law theory and practice. As a novel form of cybercrime, fake transactions and inflated reviews present unique challenges to both theoretical and practical aspects of criminal law. By conducting an in-depth analysis of the criminal regulation of such behavior, this study aims to advance criminal law theory and enrich research on cybercrime within the field of criminal jurisprudence. Moreover, the findings can provide practical guidance for judicial practitioners, helping them better understand and apply criminal law to combat this behavior more effectively.

By systematically analyzing the characteristics of fake transactions and inflated reviews and clarifying their societal harms, this study provides a robust theoretical foundation for criminal regulation. It refines the standards for the application of criminal charges and explores the integration of criminal law with other legal measures. Ultimately, it seeks to construct a comprehensive legal regulatory framework, enhancing the practical and instructive value of the research.

2. Necessity and Controversy of Criminal Law Intervention

2.1. Deficiencies in Existing Regulatory Measures

Given the significant harm caused by fake transactions and inflated reviews, the inadequacy of current civil and administrative regulatory measures necessitates the intervention of criminal law. However,

such intervention is not without controversy. Although civil law can regulate fake transactions and inflated reviews, its effectiveness is limited. Civil lawsuits typically require consumers or merchants to initiate proceedings and bear a heavy burden of proof, leading many victims to abandon claims due to difficulties in gathering sufficient evidence. Additionally, civil compensation amounts often fail to fully cover victims' losses, offering insufficient deterrence against such behavior.

Administrative regulation, on the other hand, relies primarily on penalties such as fines and the revocation of business licenses. However, these penalties are relatively lenient and entail high enforcement costs, making it difficult to comprehensively and effectively address large-scale fake transaction and inflated review practices. Moreover, the execution of administrative penalties is often complex, with enforcement difficulties allowing many perpetrators to evade punishment.

2.2. Theoretical Basis for Criminal Law Intervention

The severity of harm caused by fake transactions and inflated reviews justifies the theoretical basis for criminal law intervention, which is rooted in the principles of legal interest infringement and proportionality. Such behavior directly undermines the credibility mechanisms of e-commerce, which are abstract and supra-individual legal interests essential for the healthy development of the digital marketplace. Furthermore, it infringes upon consumers' rights to information, choice, and property, as well as competitors' rights to fair competition and commercial reputation. The significant degree of harm inflicted on these legal interests necessitates criminal law intervention.

The principle of proportionality dictates that the severity of criminal penalties should align with the extent of legal interest infringement. Given the composite and extensive harm caused by fake transactions and inflated reviews to market order and consumer rights, civil and administrative measures alone cannot effectively restore the damages. Therefore, criminal law intervention is both necessary and should be reasonably applied to ensure the effective protection of legal interests.

2.3. Disputes Over Legal Classification and Standards in Judicial Practice

In judicial practice, there is considerable debate over the legal classification of fake transactions and inflated reviews, with disputes primarily involving three offenses: illegal business operations, false advertising, and illegal use of information networks. Courts often apply different charges in similar cases, leading to inconsistent judgments.

For instance, in the case of "Li's Illegal Business Operation", the court classified Li's behavior as illegal business operations, sentencing him to five years and six months of imprisonment and imposing a fine of 920,000 yuan. The court determined that Li's actions violated national regulations on internet information services, constituting illegal business activities.[1] However, this classification is controversial, as the broad scope of illegal business operations may lead to the overuse of this "catch-all" charge.

In another case, "Zhang's False Advertising", the court convicted Zhang of false advertising, sentencing him to one year and eleven months of imprisonment. The ruling was based on Zhang's fabrication of transactions and reviews, which constituted false promotion that misled consumers. [2] Additionally, some courts have classified similar acts as the illegal use of information networks, arguing that offenders facilitated fake transactions and inflated reviews by establishing websites or communication groups.

The lack of consensus in judicial practice regarding the classification of fake transactions and inflated reviews results in inconsistent adjudication standards. Therefore, it is imperative to further explore and clarify the classification criteria for such behavior, unify judicial standards, enhance the regulatory function of criminal law, and improve the certainty and predictability of judicial decisions.

3. Multidimensional Legal Analysis of Fake Transactions and Inflated Reviews

3.1. Classification of Fake Transactions and Inflated Reviews

3.1.1. Positive Fake Transactions and Inflated Reviews

Positive fake transactions and inflated reviews refer to practices where merchants fabricate transactions and positive reviews to boost their own credibility and sales, aiming to attract more consumers or secure platform subsidies and rewards. This behavior typically involves merchants themselves or hired individuals conducting fake purchases and leaving fraudulent positive reviews. For example, merchants may register multiple accounts or employ individuals to engage in false transactions to enhance their store's credit rating and product sales. In the case of "Li's Illegal Business Operation", Li established the "Zero Distance E-commerce Alliance" website, organizing members to conduct fake transactions and inflated reviews for profit.

3.1.2. Negative Fake Transactions and Inflated Reviews

Negative fake transactions and inflated reviews involve merchants maliciously posting negative reviews or fake positive reviews to damage competitors' reputations, thereby undermining their market competitiveness. This behavior usually entails merchants or their agents making fake purchases from competitors' stores and leaving malicious negative reviews or fabricating misleading positive reviews to tarnish the competitors' credibility, resulting in reduced sales. For instance, in the case of "Dong and Xie's Disruption of Business Operations", Dong hired Xie to repeatedly use the same account to make malicious purchases from a competitor's Taobao store and leave negative reviews. Consequently, the competitor's store was penalized by the Taobao platform for engaging in fraudulent transactions and subjected to downgrading sanctions.

3.2. Characteristics of Fake Transactions and Inflated Reviews as Cybercrimes

3.2.1. Heavy Dependence on the Internet

Fake transactions and inflated reviews heavily rely on the Internet, with their execution entirely facilitated by online communication tools, including the establishment of dedicated online platforms for operational purposes. The covert and widespread nature of these activities significantly increases the difficulty of regulation. During the process, coordination and organization are carried out through online platforms, with communication and transactions between those issuing and completing tasks occurring over the Internet. This makes the entire operation difficult to detect and trace. Furthermore, the anonymity and cross-regional nature of the Internet facilitate such activities, allowing perpetrators to easily evade legal risks and further complicating the regulation and governance of this conduct.

3.2.2. Auxiliary and "Service-Oriented" Illegal Acts

Fake transactions and inflated reviews exhibit auxiliary and "service-oriented" characteristics, aiming to meet merchants' unlawful demands to enhance their commercial reputation. [3] This conduct not only infringes on consumers' rights to information and choice but also undermines fair competition within the market, posing significant social harm. Platform operators, by providing technical support and organizational coordination, assist the issuers in completing fake transaction tasks, thereby earning substantial profits. While such auxiliary actions may appear neutral, they directly support unfair competition practices and should therefore be subject to legal sanctions.

3.3. Multidimensional Analysis of Legal Interest Infringement

3.3.1. Consumers' Right to Information and Choice

Fake transactions and inflated reviews fabricate sales data and favorable reviews, creating a false representation of goods or services. This results in information asymmetry, hindering consumers from accessing genuine and accurate information necessary for decision-making. Consequently, consumers are unable to make informed decisions that align with their interests. This asymmetry not only infringes upon consumers' right to information but also impairs their ability to exercise their right to choice. As a result, consumers face higher decision-making risks, often leading to purchases that fail to meet expectations and causing economic losses.

3.3.2. Competitors' Commercial Interests

Such practices constitute unfair competition, primarily regulated by laws such as the *Anti-Unfair Competition Law*. Positive fake review schemes enhance a merchant's reputation through fabricated transactions, securing more trade opportunities at the expense of competitors' commercial interests. Conversely, negative fake review schemes involve malicious negative reviews or misleadingly favorable ones that suggest competitors are engaging in fraudulent activities. This leads to penalties imposed by e-commerce platforms, reducing competitors' market rankings and transaction opportunities. Honest businesses are thus placed at a disadvantage, while perpetrators gain unfair competitive advantages.

3.3.3. E-Commerce Platform Operational Environment

An e-commerce platform's reputation mechanism is central to its operations, attracting both consumers and merchants to engage in transactions. Fake transactions and inflated reviews undermine this mechanism, distorting data and failing to reflect merchants' actual performance. The credibility of the platform's reputation system is eroded, diminishing consumer trust. Repeated poor experiences, such as purchasing substandard goods, foster skepticism toward the platform, reducing user retention and causing customer attrition. This jeopardizes the platform's long-term development.

3.3.4. Market Fair Competition Order

The legal protection of market order is essential for the healthy development of a market economy. Fake transactions and inflated reviews disrupt fair competition by shifting the focus from the quality of goods and services to manipulative practices based on falsified information. This behavior not only harms the interests of other merchants but also erodes consumer trust, ultimately jeopardizing the health and sustainability of the entire market.

3.4. Multiple Considerations for the Application of Criminal Law

3.4.1. Criminal Law Application Considerations for Different Subjects

3.4.1.1. Exclusion of Criminal Sanctions for Order Placing and Order Taking Parties

Although both the order initiators and the order takers participate in false transactions in order inflation and review manipulation behaviors, their levels of involvement and methods of profit differ, making them unsuitable as the primary focus of criminal sanctions. The order initiators mainly aim to enhance their own reputation and gain more trading opportunities, while the order takers seek small rewards. From the perspective of the principle of criminal law restraint, criminal sanctions against

these parties should be cautious to avoid excessively expanding the scope of criminal law application. In contrast, the operators of review manipulation platforms, as organizers and profit-makers of the behavior, should be the key targets of criminal regulation.

3.4.1.2. Focus of Criminal Law Application for Platform Operators

Operators of review manipulation platforms establish platforms, organize, and coordinate review inflation and fake transaction behaviors, profiting immensely from these activities, which severely harm market order and consumer rights. Therefore, the application of criminal law to platform operators should be given particular attention, ensuring that their actions meet the criminal elements prescribed by criminal law, thus enabling effective criminal sanctions against them.

3.4.2. Analysis of Specific Offenses and Their Application

3.4.2.1. Illegal Business Operations

Academic debates on the crime of illegal business operations center on whether review manipulation and fake transactions violate the Article 8 of the *Anti-Unfair Competition Law*. Wang Huawei holds that such behavior, which disrupts market order and harms rights, meets the elements of the crime. [4] However, other scholars argue that the application of this crime should be should be strictly limited to avoid it becoming an overused "catch-all crime". Review manipulation doesn't directly infringe upon the legal interests protected by the crime of illegal business operations, which relates to the state's administrative licensing system. Categorizing it under this crime may violate the principle of legality and cause legal confusion.

3.4.2.2. False Advertising

The debate on false advertising crime mainly focuses on whether review manipulation and fake transactions are covered by Article 222 of the *Criminal Law*. Ma Yongqiang believes that review manipulation has an advertising function and can mislead consumers, fitting the definition of false advertising. [5] Article 17 of the *E - commerce Law* also clarifies that any false or misleading transaction is a form of false promotion. However, other scholars argue that the subjects involved in review manipulation do not meet the requirements for a false advertising crime. The offenders in false advertising must be the advertiser, advertising operator, or publisher. In contrast, the service providers of review manipulation platforms are not advertising operators, and their actions do not directly involve false promotional content but facilitate fake transactions. Additionally, false advertising requires direct fraudulent intent, while the motivation behind review manipulation may be more complex, aiming at gaining an unfair market advantage.

3.4.2.3. Disruption of Production and Operations

The debate over the crime of disrupting production and business operations mainly focuses on whether review manipulation and fake transactions fall within the scope of Article 276 of the *Criminal Law*. Ma Yongqiang believes that reverse review manipulation, which aims to retaliate by maliciously lowering a competitor's reputation, disrupts the production and business order of e-commerce platforms, fitting the elements of the crime. [6] However, some scholars argue that the means required for this crime must involve physical destruction of property, while malicious review manipulation does not cause physical damage. Moreover, the crime requires the intent to directly disrupt production and business activities, whereas the intent behind review manipulation may be more focused on unfair competition.

3.4.2.4. Exploration of Other Relevant Crimes

3.4.2.4.1. Illegal Use of Information Networks

The applicability of the crime of illegal use of information networks centers on whether review manipulation and fake transactions meet the provisions of Article 287-1 of the *Criminal Law*. Scholar Ma Yongqiang argues that such behavior, by disseminating false information through online platforms and facilitating unlawful transactions, disrupts market order and satisfies the constitutive elements of this crime. However, some scholars contend that the core of review manipulation lies in false advertising and unfair competition, with its social harm primarily reflected in the disruption of market economic order rather than constituting a direct cybercrime. Therefore, when determining criminal liability, greater emphasis should be placed on its impact on market order rather than viewing it solely from the perspective of cybercrime.

3.4.2.4.2. Damage to Commercial Reputation and Product Reputation

Scholar Ye Liangfang also notes that reverse review manipulation can be applied to the crime of damaging commercial reputation or product reputation. By "fabricating and disseminating" false information, reverse review manipulation undermines merchants' credit ratings, satisfying the provisions of Article 221 of the *Criminal Law*. This behavior, through fabricated negative reviews or malicious evaluations, damages merchants' commercial reputation and product credibility, causing substantial harm to their business operations. However, other scholars argue that the subjective intent of such behavior is not "malicious fraud" but rather concerns the reputation status and transaction security of the shops. Furthermore, it does not meet the basic quantitative standards required for the crime of damaging commercial reputation. Additionally, the intent of review manipulation is more focused on unfair competition rather than directly harming others' reputation.

As outlined above, discussions surrounding existing offenses are logically consistent and have a certain degree of validity, but each offense also faces insurmountable limitations and fails to precisely align with the characteristics of review manipulation. Therefore, this paper advocates for legislative improvements by establishing an independent offense to specifically regulate the conduct of review manipulation platform operators. This approach aligns with the principle of restraint in criminal law, avoids the risk of expanding the application of existing offenses, and enhances legal clarity and operability by defining specific offenses and constitutive elements. It provides precise guidance for judicial practice, thereby enabling effective governance of review manipulation behavior.

4. Criminal Regulation and Governance Improvement of Review Manipulation in E-Commerce Platforms

4.1. The Supplementary Role of Criminal Law in the Multi-Dimensional Governance of E-Commerce Platforms

4.1.1. The Multi-Layered Nature of Governance Strategies

4.1.1.1. The Priority Application of Civil and Administrative Regulation

The governance of review manipulation requires a multi-layered strategy. Civil and administrative regulations should take precedence. Consumers can seek compensation from merchants under laws such as the *Consumer Rights Protection Law*, while e-commerce platforms should assume supervisory responsibilities and provide advance compensation when necessary. On the administrative side, market regulatory authorities should strengthen oversight, establish credit

punishment mechanisms, and blacklist non-compliant merchants, restricting their market access and business activities.

4.1.1.2. The Role of Technological Innovation and Responsibility in E-Commerce Platforms

Technological innovation and responsibility on the part of e-commerce platforms are crucial. Platforms should leverage big data and artificial intelligence technologies to monitor transaction data, establish models for detecting abnormal transactions, and issue warnings and conduct investigations into suspected review manipulation. Additionally, platforms must strengthen merchant management by requiring accurate information, penalizing non-compliant merchants, and fulfilling their social responsibilities. Efforts should also focus on raising legal and ethical awareness among merchants and consumers to promote integrity.

4.1.2. The Role and Function of Criminal Sanctions

4.1.2.1. The Positioning of Criminal Law as a Last Resort

Criminal law should serve as the last resort, with a clearly defined supplementary role. It should only be invoked when civil and administrative regulations prove ineffective, and the conduct in question poses significant social harm. The application of criminal law must adhere to the principles of legality and restraint, ensuring its justification and legitimacy.

4.1.2.2. Achieving Effective Deterrence by Increasing the Cost of Violations

The primary function of criminal sanctions is to increase the cost of illegal activities and achieve effective deterrence. Severe penalties and substantial fines can deprive offenders of the capacity to reoffend and undermine their financial base. Additionally, the confiscation of illicit gains and the recovery of criminal tools further raise the cost of violating the law. Strengthening the coordination between criminal law and other legal frameworks is essential to establish a comprehensive governance synergy.

4.2. Suggestions for Improving Criminal Regulation of Review Manipulation

4.2.1. Legislative Level

At the legislative level, it is recommended to clearly define the offenses and constitutive elements of falsified transactions and review manipulation to enhance the certainty and operability of the law. Legislators should refine ambiguous terms such as "other methods", establishing specific standards for their interpretation. Clear limits on analogous and expansive interpretations should also be set to prevent the misuse of offenses through overextension. By explicitly defining offenses and their constitutive elements and regulating the scope of interpretation, judicial practice can apply the law more precisely, thereby effectively strengthening the criminal regulation of falsified transactions and review manipulation and upholding the fairness and authority of the law.

Adding disqualification penalties for cybercrimes is another key legislative improvement. Cybercrimes are characterized by high concealment, rapid dissemination, and extensive impact, making traditional sanctions insufficient to curb their proliferation. Disqualification penalties, which deprive offenders of the right to engage in specific activities or enjoy certain privileges, can prevent them from exploiting network platforms to commit further offenses.

4.2.2. Judicial Level

At the judicial level, it is imperative to standardize adjudication criteria and issue unified judicial interpretations. Currently, disparities in the conviction and sentencing standards for falsified transactions and review manipulation often lead to inconsistent judgments for similar cases. It is recommended that the Supreme People's Court and the Supreme People's Procuratorate jointly issue judicial interpretations to clarify and refine issues such as the characterization, constitutive elements, and identification of circumstances in these cases, thereby unifying adjudication standards.

Additionally, judicial collaboration should be strengthened to form a cohesive working mechanism. Falsified transactions and review manipulation involve multiple stages and parties, requiring close cooperation among public security organs, procuratorial agencies, and judicial courts. For instance, during the investigation phase, public security organs should work closely with e-commerce platforms to obtain relevant evidence; during the prosecution and trial phases, procuratorial and judicial authorities should enhance communication and coordination to ensure fair and just handling of cases.

4.2.3. Societal Level

At the societal level, it is crucial to raise awareness and strengthen educational campaigns. The governance of falsified transactions and review manipulation relies on the collective participation and support of society. Government agencies, media, and educational institutions should actively engage in promoting legal knowledge and the harmful consequences of such behavior, enhancing the public's awareness of the law and integrity. This will guide the public in consciously resisting falsified transactions and review manipulation.

Industry associations, as self-regulatory organizations within their respective sectors, also play a key role and should establish industry standards and self-regulatory guidelines, reinforcing the management and supervision of their members. For example, e-commerce industry associations could develop criteria for identifying and addressing falsified transactions and review manipulation, as well as implement penalties such as warnings, fines, and the cancellation of membership for non-compliant members, thereby promoting healthy and orderly industry development.

5. Conclusion

In summary, the study of criminal regulation on organized falsified transactions and review manipulation holds significant theoretical and practical value. This paper analyzes the harmfulness, regulatory necessity, legal analysis, and potential solutions, aiming to provide systematic theoretical support, foster the collaborative development of criminal law theory and practice, enhance the effectiveness of enforcement, improve the legal framework for e-commerce, and solidify the legal foundation for the development of the industry.

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