

## Legal Issues of Consumer Protection in Group-Buying Online

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### Abstract

With the development and wide application of the network, group-buying online recently develops very rapidly in China. Consumers enjoy the benefits of group-buying online. But at the same time, their own legal rights and interests have been violated because of the defects of legal norm system, supervision system and penalty mechanism. It is necessary to solve the insufficient from the aspect of law to regulate the trade order of group-buying online and protect consumers' legal rights and interests.

**Key words:** Group-buying online; Consumer

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### INTRODUCTION

Along with the rapid development of network technology and widely use of computer, the number of consumers who are using Internet increases immediately. This results in the change of idea, pattern, range, content of their consumption. "Jumei Youpin", "Meituan net" and many other famous group-buying websites become more and

more important in people's daily consumption. Being a team leader can be a lot of work, so group-buying websites sprung up as agents between buyers and sellers for receiving a commission from the sale. Basing on the analysis of current situation of the group-buying online and the consumers' legal interests, this paper proposed some legal countermeasures and suggestion to strengthen the regulation of group-buying online and promote the development.

## 1. CURRENT SITUATIONS OF GROUP-BUYING ONLINE

### 1.1 Concept of Group-Buying Online

Group-buying online is the product when the online shopping develops to a certain stage. Group-buying online, it refers to a certain number of consumers in a certain time buy the same kind of commodities or services for bulk discounts through the professional group-buying websites. Group-buying website signs an agreement with a trading company, discusses the name, types, quantity and price of the selling goods or services, and then posts the sales information on the website. When consumers reaching a certain number, the website will contact with the trading company and receive remuneration.

Group-buying online can be divided into two types: physical goods and electronic ticket. The physical goods group-buying is that consumers click to buy on the website and pay through the Internet bank, and the goods will be sent to the consumers by the express company several days later. On this process, consumers can buy the goods with price discounts. Trading companies can sell goods and advertise themselves at the same time. Group-buying websites can obtain a certain proportion of income. The electronic ticket is for restaurant, entertainment and other service industry. After consumers pay through the internet bank, the website would sent the electronic

number and code to consumers through the phone message, then consumers go to consume the service resort to the electronic ticket during some reference period.

Internet plays a very important role in group-buying online, and it is a bridge between consumers and trading company. The website collects the consumers who have the same tendency and purchasing power, then buy in large quantities from the trading company to achieve the most favorable commodity or service. Group-buying online benefits consumers, merchants and group-buying websites, and it is the inevitable result of high speed development of the Internet.

At present, the forms of group-buying online include the following three: the first is consumers organize the group-buying themselves through the Internet. In this form, organizer is the member of consumers, and they collect consumers through Internet, then discuss with the merchants, so as to get a better condition than a single consumer. The second is the merchant organize the group-buying. In this type of group-buying, the merchant posts group-buying information to invite consumers to participate in the purchase. The last is the professional group-buying organization organizes the purchase. Professional group-buying website involved in this type. The first two types are the same to the single consumer and single merchant, but in the last type, the participation of the third party makes the relationship more complicated.

## 1.2 The Characteristics of Group-Buying Online

According to the research of China International Electronic Commerce Center, there are 6,177 group-buying websites by the end of December 2012. The websites' number and scale expands unceasingly because of the advantages of the group-buying online. On April 2014, the volume of business is 4.84 billion. Firstly, the most obvious character is price advantage. The development of group-buying online directly benefits the vast number of consumers. In group-buying online, the price of goods or services is lower than the market retail price in a large extent, so it makes ordinary consumers reduce their consumption cost and save the spending. At the same time, consumers can choose the high quality product through the group-buying consumers' comments on the goods or services, so they can gain the active right in the consumption and change the traditional consumption habits. Secondly, the market access threshold is very low. The popularity of the Internet and the progress of science and technology provide strong technical support for group-buying online, and it is also the main reason of the group-buying online becomes a popular. The access threshold of current group-buying website is very low, and the application of registration is very fast and convenient, even it is not necessary to register in the departments of industry and administration. For the merchants of commodities and services, group-buying online can save the advertising

costs and reduce the cost of sales. Besides, because the style of group-buying online is "enjoy after consumption", the merchants can speed up the turnover of funds and get substantial profits through the mass of the sale. Thirdly, the group-buying participation is limited. The limitation of group-buying participation has two types. One is limit the number of participants. Group-buying websites tend to limit the participants in order to maintain themselves and the merchants' interests. It limits not only the lowest limit of members, but also the maximum number. The former is based on the necessary of the group-buying, and the latter is provided to protect the merchant's interests and sells quality. The other one is limit the participant time. Group-buying online usually has the limitation of start time and end, and consumers can only consume in specific time, and this is one of the main characteristics of group-buying online different from the general consumption.

## 2. INFRINGEMENT OF CONSUMER'S RIGHT AND INTEREST

### 2.1 Infringement of Consumers' Right to Know

Consumers' right to know has been established in consumer protection law. According to the 8TH provision in the consumer protection law, consumers have the rights to know the real situation of the goods and service. But the most dangerous risk of group-buying online is that consumers can't know the goods' real situation. The existing sites all claim that their goods are certified products. In fact, they usually publishes false information, sell fake goods, or mixes with fake, high imitation products and hide the real information, so they infringe consumers' right to know undoubtedly. On the other hand, the quality of service is significantly reduced in group buying some service. Besides, group-buying websites and merchants also raise the original price of the goods or service, to make illusion of goods discount larger, and inflate the number of the buyer at the same time to seize the consumers' herd mentality to attract more consumers.

### 2.2 Infringement of Consumer's Right of Privacy

In group-buying online, the group-buying websites require the users who want to trade to register on the Internet first, and the content of the registration are consumer's real name, phone number, home address and some other personal information. But because of the openness of the Internet and the negligence of the websites, they have not fulfilled the duty of protecting consumer's right of privacy, and consumer's personal information has been lost. So it directly causes some merchants use consumer's personal information to do some business, and infringe consumer's right of privacy. In addition, some websites use the information to do some business in the case of having not gotten the consumer's consent. With the popularity of

e-mail and short message, merchants collusion the group-buying websites for consumers' E-mail and short message to send spam messages. E-mail and short message spend rapidly, cost lowly and coverage widely, so it affects consumers' daily lives to a large extent.

### **2.3 Infringement of Consumer's Right of Transaction Security**

Group-buying online is a style of "enjoy after consume" at the present, and it mainly divided into two cases: one is for consuming goods, the consumers order online and pay through online banking, then the websites notify the merchant to delivery after receive the money; The other one is for consuming service, the consumers order online and pay through online banking, then get the electronic number and code through the short message, and consume by the electronic ticket. Consumer's transaction risk increased in the latter pattern. At first, consumers pay through the bank on the Internet, and some hackers can intrusive the system to change the consumers' account, steal the money and make consumers property lost; The second, if consumers want to have a refund, the websites usually return them virtual currency on the website, but not return the real money to consumers' bank card. There is no doubt that it infringes consumers' interest; Third, it occurs frequently that the websites skip off with the advance payment of consumers, and it breaks the market transaction security to a great extent.

### **2.4 Infringement of Consumer's Right to Fair Exchange**

Consumer's right to fair exchange reflected in the article 10 of consumer protection law. Consumers have the right to fair exchange. Consumers have the right of quality assurance, reasonable price, correct measurement and fair exchange and so on, and they have the right to refuse the coerced exchange. In the group purchase, consumer's right to fair exchange mainly reflects in the forced consumption and invisible consumption. In the group-buying online, because that consumers enjoy after consume, merchants take advantage of the dominant position to charge compulsory. For example, the author once group buying the hot pot through a group-buying website. When I go to the shop to consume, the merchant told me I should pay the money for the base soup. But this term haven't been explained on the group purchase page. At last, I had to pay for the base soup. Not only consumers suffer psychological harm from compulsory consumption and invisible consumption, but also the credit of the websites and merchants. It infects the order of the market.

### **2.5 Lack of After Service**

The refund conditions are very complicated on the group-buying website. Despite the current mainstream websites all launched that "if consumers have not consume, they can get the refund at any time" or "free for consume unsatisfied" and so on, they all set a lot of

strict conditions. It is difficult to achieve these conditions. Even if they can refund, the websites have many strict and complicated procedures, and it makes consumers spend much time and energy. Especially when the websites handle the returns, they require consumers mail the goods first. It not only increases the cost of shopping, but also can't ensure the security. In the reality, the problem is mainly appear like this: consumers group-buying a service, such as see a movie, stay in a hotel and so on, and for some reasons they can not go to consume within the given time, but the website will not return the money, and the service can not be delayed, and it infringes consumer's interest. For example, the author once bought the "eighty-eight yuan for hotel fees". Then I payed for it and made an appointment for the stay time. Later because of some reason I can't go to consume on time, I called the hotel to delay the consume time. But the hotel told me they have provided that the group-buying order cannot be delayed and refund. So it causes material damage and mental harm to the consumers.

### **2.6 Infringement of Consumer's Right to Recourse**

Firstly, in order to attract consumers, some group-buying websites claim "ten times pay if found fault". When it happened to some disputes, and consumers called the customers service, the buck-passing has already started between the website and merchant. So it is difficult to reflect the right to recourse. On the other hand, because group-buying online is very popular and the consumers are decentralized in fact, the consumers don't know each other. Relative to the website and merchant, consumers are in a weak position, and this makes it hard to collect evidence. Recourse end up with nothing conclusive.

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## **3. COUNTERMEASURES FOR CONSUMER PROTECTION IN GROUP-BUYING ONLINE**

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The reasons of causing consumers' interest infringed are complex and varied, and it mainly includes that the market access threshold is low, the legal system has not been established, lack of supervision and lack of relief way and so on. On the whole, we have made some articles of law to standardize the electronic market, but they would be highly imperfect. Besides, we have not formulated the law to supervise the group-buying online expertly, and it makes group-buying online full of problems. In fact, they might be bad for the group-buying market. Therefore, it is necessary to perfect it from the legal level.

### **3.1 Establish Relevant Laws**

On 29 October, 2010, Certification Rules of Electronic Commerce Credit legislated by China International Electronic Commerce Center promulgated, and it

requires to review the scale of the group-buying websites, registered capital and the real-name registration. However, it is just a rule of voluntary certification, so it is not compulsive. In summary, in order to lead the group-buying online market to develop favorable, we should make the special and compulsive law, and stringent the entry of the group-buying website through the law to ensure the right and obligation of the consumers, merchant and websites. In addition, we should ensure the punitive measures to standard the group-buying market. Consequently, it is necessary to perfect the Consumer Protection Law. The perfection of Consumer Protection Act of our country should trace back to the history and look forward to the future. For example, we should constitute the articles to protect consumer's interest complementary. On the other hand, referring foreign right to regret to build perfect legal system, and give the consumers the right to cancellation when the merchant and website breach of statutory duty.

At first, raising the market access threshold is very important. It is infrequent that group-buying website register in the departments of industry and administration at present. They usually cost hundreds of yuan and a few days to establish a network group-buying website, so it affects our group-buying quality directly. Therefore, we should start with the register, and the applicant should provide the identification, home address, phone number and so on. The departments of industry and administration must examine the qualification strictly, and they must provide guarantee. Once fund the false information, the departments of industry and administration should not register for it. Only from the start, do not provide domain name services to the enterprises and individuals who haven't conformed with the regulations to maintain the purity and quality of the group-buying market. In addition, it applies to the merchant, and the website should bear joint liability with the merchant.

Besides, we should protect consumer's right to know. Different from protecting consumer's right to know in the normal trade, the right to know in the group-buying online should be enlarged. Except for the articles of consumer protection law, consumer's right to know in the group-buying online should conclude: firstly, consumers should know the relevant information of the merchant and website. Because group-buying online usually refers to three legal subjects: website, merchant and consumer. Consumers have been increasingly in a disadvantageous position comparing with the merchants and websites. Consumers should be informed the relevant information of the websites and merchants. Secondly, consumers should know the true information of the goods and service. Merchants must explain the comprehensive information of the goods or services, but not simple words or unmatched pictures. And more importantly, the key content must be labeled evidently. The misunderstandings should be analyzed, and consumers' question should be

accepted. Thirdly, consumers should know the procedure and limit of the trade. The procedure of the trade is set by the merchant and website unilateral, so they must explain it to consumers. Consumers should know the condition before the trade, in case consumers know the condition when they go to consume, and it make consumers cost much unnecessary time and money.

In addition, we should protect consumer's right of privacy. Groupon is the originator group-buying website in USA, and it has very definite and perfect articles of the right to privacy. It is worth learning for us. The privacy policy should conclude the collection way of personal information, collection time, collection range, using method, security measures and other exceptional situation, and protecting consumers' personal sensitive information specially. The group-buying website should make the rules to protect personal information, and promulgate it on the website to let consumers aware. At last, perfect the refund system is necessary. Return policy is one of the most important policies of the after services, because it can relieve their extra worries and promote the development of the group-buying. Therefore, we should regulate that any group-buying website must have the refund system, and put it the core part of regulating group-buying market. It must conclude the following three situations: (a) The supplier has entered the liquidation procedure. (b) The supplier has not provided the goods or services. (c) The goods or services which the supplier provided were not in conformity to the condition that the advertisement publicized. Consumers must be informed the refund system in various ways. At the same time, the refund money should be refunded to consumer's cash accounts, but not virtual currency which only can be used on the website. Besides, the group-buying websites have duty and ability to help consumers doing the refund.

### 3.2 Perfect Supervision Mechanism

On April 2011, "Shuangtuan net" organized the "group-buying self-discipline rules" and formed the first self-disciplining standard of China's group-buying online. Despite the rules are not agreements with legal binding force, it has important significance on the group-buying market's sustainable development and becomes the sampler of making industry Standard. I think, it is different between supervise on the network group-buying and the E-commerce. The supervision on group-buying website should be guided by department of commerce, and we should bind market supervision with trade self-discipline. China have not make the special supervision policy, so before making it, the association of group-buying online should actively guide the group-buying online industry, and make the rules to supervise and guide the group-buying online. The rules must conclude protecting consumer's right of privacy, after service rules and service termination rules and so on. It is very difficult to investigate and treat the website when the fraud website

has appeared and consumer's interest has been infringed. Therefore, we should build the supervise system online throughout the country, and advocate the supervise in a active way. Once found the website without business license or internet information business license, or false propaganda, selling fake and forged products during its marketing operations, they should be closed and punished strictly, and the punishment must beyond the interest they have get.

### 3.3 The Petty Lawsuit Procedure and Class Action System

A large number of people involved in corruption. The consumers in the group-buying online are dispersed, and they are in a disadvantageous position. It is difficult for them to bear the expense of a lawsuit. Because the object of the action is very low, it is necessary to build the petty lawsuit procedure and class action system. The petty lawsuit procedure has one judge final system and trial by oneself, and reduce degree of participation of lawyers to reduce the cost. The class action system is one of the generalized public interest litigation, and that is to say one or several represents represent all the members raising a lawsuit for all the members' interest. The judge made by the court is not only binding on the members who participate the lawsuit directly, but also on the members who did not participate the lawsuit directly. In order to solve the low project and population dispute, the petty lawsuit procedure and class action system are necessary. It can make the parties and court save the lawsuit cost effectively, solve the dispute efficiently, and protect consumers' interest.

### 3.4 Unblock the Remedy Approach

In order to solve the dispute efficiently, unblock the remedy approach is the very key link. The government relevant department should set the appeal center. When the center receives the customer complaint, the center should analysis and treatment it. Once thought accord with the condition of cheating consumers, it should be exposed and promulgated. The website or merchant should compensate for consumers' loss, and fine highly to promote the industry honest operation and to make sure the consumers have the way to protect themselves interest. In addition, it

should be inclined to consumers on the adducing evidence system to protect the vulnerable groups, and implement the essential justice between consumers and merchant.

### 3.5 Increase the Strength of Sanction

Although the birthrate of the group-buying websites is very high, the mortality is very high too. By the time of 2014, 5,376 websites closed, and the industry presented a confused phenomena. The key reason of the phenomena is that the relevant department has not punished the websites or merchants who infringed consumer's interests, or the sanction have not restricted them. The websites and merchants pursue high profits by lowly cost, and the cost of default is very low, so it lead to the numbers of website increase highly, and their quality dissemination enormous. Therefore, the sanction must can make the three parties interest balanced, and the trade association can make the concrete rules according to the law, to promote the website choose the merchant more cautiously, and the merchant obey the rules strictly.

Group-buying online have been very important part in consumers' life, so it is necessary to regulate the industry from the legal expect. Building the supervise system, perfecting the remedy approach and protecting consumers' interest can make the group-buying industry develops more healthy and the society develops more harmonious.

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