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Analysis of the Constituent Elements of Consumer Fraud in E-Commerce

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Abstract: The rapid development of e-commerce has been accompanied by frequent occurrences of consumer fraud, which severely damages the legitimate rights and interests of consumers and disrupts the market order of the e-commerce economy. Based on the legal theory of the constituent elements of consumer fraud and considering the particularities and complexities of e-commerce activities, this paper analyzes the concept and characteristics of consumer fraud in e-commerce. It examines the constituent elements of consumer fraud in e-commerce from four dimensions: subject element, subjective element, object element, and objective element. It explores its manifestations and legal application issues within the online environment and proposes suggestions for improving relevant legal regulations from four aspects: refining the criteria for determining the constituent elements of consumer fraud, strengthening the legal liability of e-commerce platforms, optimizing the rules for evidence provision by e-commerce consumers, and enhancing technical supervision. The aim is to provide references for judicial practice and consumer rights protection and to promote the healthy and sound development of the e-commerce economy.

Keywords: E-Commerce; Consumer Fraud; Constituent Elements; Legal Regulation

1. Introduction

According to statistics on complaints accepted by consumer associations nationwide, in the third quarter of 2025, national consumer associations accepted a total of 536,761 consumer complaints, a year-on-year increase of 7.9%. Among these, 274,427 cases were resolved, recovering economic losses of 236 million yuan for consumers. They also received 155,900 visits and consultations from consumers. Therefore, to promote the high-quality development of e-commerce, fully stimulate consumption vitality, and enhance consumer satisfaction, addressing the issue of consumer fraud is urgent. Given the characteristics of e-commerce, such as virtuality, cross-regional nature, and technological dependence, consumer fraud exhibits complex methods, strong concealment, and significant difficulty in accountability. According to relevant laws such as the Civil Code, the E-commerce Law, and the Consumer Rights Protection Law, the constitution of consumer fraud requires meeting specific elements. From a legal perspective and in conjunction with typical cases, this paper delves into the constituent elements of consumer fraud in e-commerce and its legal application to clarify behavioral boundaries and responsibility determination.

2. Concept and Characteristics of Consumer Fraud in E-commerce

2.1 Concept of Consumer Fraud in E-Commerce

Domestically, among the theoretical research of numerous scholars, different scholars have proposed various definitional standards. Most scholars define consumer fraud as "operators intentionally providing false information, concealing the true situation, or being seriously irresponsible, causing consumers to fall into a mistaken understanding and make a declaration of intent." However, Lixin Yang holds a different view, arguing that consumer fraud refers to acts where the actor borrows the consumer's name to implement fraudulent behavior, infringing upon the operator and causing damage to their property rights [1]. Zhihong Gao sorted out six doctrines regarding the constitutive elements of consumer fraud. He believes that the academic analysis of the constitutive elements of fraudulent behavior is not conducted within the context of the same branch of law [2]. Kun Luo summarized the

different approaches to defining fraud in civil law versus consumer rights protection law [3]. Considering the above scholars' viewpoints, it can be concluded that although different scholars have different definitions of consumer fraud, most scholars believe that consumer fraud is fraudulent behavior committed by operators against consumers, while a minority of scholars believe it refers to fraudulent acts by consumers that cause damage to operators. The consumer fraud in e-commerce referred to in this paper denotes fraudulent behavior committed by e-commerce operators against consumers.

Thus, research on consumer fraud in e-commerce has mostly been conducted from the perspective of online consumption. Currently, there is no consensus on its concept within academia, and relevant legal norms have not provided a clear definition. There is relatively little research on defining the concept of consumer fraud in e-commerce [4]. In summary, consumer fraud refers to operators, in the process of providing goods or services, using false or improper means to deceive or mislead consumers, causing damage to their legitimate rights and interests. Therefore, consumer fraud in e-commerce refers to acts where e-commerce operators, in the process of selling goods or providing services via the internet and other information networks, use improper means such as false transactions or misleading commercial promotions to deceive or mislead consumers, resulting in damage to their legitimate rights and interests [5]. Fundamentally, consumer fraud in e-commerce refers to acts where operators in the e-commerce field, leveraging their advantageous information position, use improper means like false transactions to deceive or mislead consumers in choosing to purchase goods or accept services.

2.2 Characteristics of Consumer Fraud in E-Commerce

2.2.1 Complexity of subjects in consumer fraud in e-commerce

With the rapid development of e-commerce, physical transactions are gradually transitioning to online transactions, and each link of the transaction is consequently becoming electronic, giving rise to many different types of new e-commerce transaction models. E-commerce, meaning the electronization of business, can occur simply by using a computer or mobile device. It includes business-to-business (B2B) transactions, such as the Alibaba platform, which provides many e-commerce merchants with a platform for online transactions and services. Secondly, it also includes business-to-consumer (B2C) and consumer-to-consumer (C2C) models, such as Taobao and social e-commerce media. Furthermore, it includes e-commerce operators who provide services through self-built websites, typically like JD.com. Finally, the e-commerce transaction process may also involve consumer fraud occurring in various links such as third-party services, e-commerce logistics, e-commerce payment, and e-commerce authentication. Therefore, the subjects of consumer fraud in e-commerce are more complex than those in traditional consumer fraud.

2.2.2 Concealment and anonymity of consumer fraud in e-commerce

E-commerce involves the electronization of all links in business activities, including the submission of orders, shipping, and logistics. The primary medium is the internet. The virtual nature of the network determines information asymmetry. Consumers primarily obtain information through product and service information released by operators, appearing in the form of pictures, text descriptions, or videos, without physical contact. Therefore, the limited means of obtaining information determine the characteristics of concealment and anonymity in consumer fraud. Situations often arise where the "person operating the transaction is not the actual person." In e-commerce transactions, accounts are mainly used for buying, selling, and transacting. The party actually operating the transaction might not be the account holder. For example, in cases of minors tipping live streamers, a "person is not the person" situation occurs. In practice, determining the legal validity of such actions requires judicial adjudication based on relevant provisions of the Civil Code and the E-commerce Law.

2.2.3 Substantial harm caused by consumer fraud in e-commerce

Given the characteristics of bidirectional information flow in e-commerce, online shopping is both convenient and fast. In daily transactions, consumer fraud in e-commerce can occur in an instant. Transaction amounts concluded in mere seconds are often thousands or tens of thousands of times greater than those in physical stores. Therefore, the speed of

information circulation far exceeds imagination. Due to the frequency and pervasiveness of e-commerce transactions, the harm caused by consumer fraud for the same commodity is much greater than that in traditional transactions.

2.2.4 Pervasiveness of consumer fraud in e-commerce

With the development of the internet and e-commerce, and the advent of the AI era, online transactions have shown a momentum of rapid development. Alongside the integration of AI technology, e-commerce transaction efficiency is increasing, and the convenience of information collection is becoming more apparent. E-commerce transactions have long broken the barriers of time and space. Online shopping and e-commerce transactions have become part of everyone's daily life. Therefore, with the application of new technologies, internet memory and traces can quickly use big data to collect and analyze personal information completely. The phenomenon of "big data-enabled price discrimination" is ubiquitous, and personal information protection faces increasingly significant challenges. E-commerce operators possess powerful data analysis capabilities and information advantages, thus holding considerable informational and technological superiority in e-commerce transactions. Instances of defrauding consumers occur frequently. According to complaint statistics released by the China Consumers Association, from 2022 to 2025, complaints about internet services consistently ranked first among consumer complaints. The 2022 Report on Consumer Rights Protection in the Field of Personal Information Protection clearly stated that operators are the primary responsible parties for protecting consumers' personal information rights. Many enterprises conscientiously implement legal requirements, fulfill social responsibilities, and focus on safeguarding consumers' personal information.

2.2.5 Cross-regional nature and jurisdictional disputes

(1) Physical separation and dispersion of transaction subjects

A typical e-commerce transaction chain often involves consumers in location A, platform-based operators registered in location B, e-commerce platforms operating in location C, and third-party service providers like logistics and payment possibly located in location D. This dispersion of subjects makes tracking fraudulent behavior, determining responsibility, and serving legal documents exceptionally complex.

(2) Conflict in legal application and regulation

Market supervision standards and consumer rights protection regulations may differ between the location of the e-commerce operator and the location of the consumer. For cross-border consumption, issues involving the application of laws from different countries (regions) are involved. Consumers often have difficulty determining which laws should apply and can easily be misled by operators exploiting information asymmetry to evade stricter regulations.

(3) Remoteness of evidence collection and fact determination

The location where the e-commerce fraud occurs (server location), where evidence is formed (electronic data storage location), and where the damage result occurs (consumer's delivery address) are separated from each other. Key evidence is mostly electronic data, such as chat records, transaction snapshots, and webpage screenshots. This evidence is easily tampered with or destroyed, and cross-regional evidence collection is costly, increasing the difficulty for consumers to safeguard their rights.

2.2.6 Difficulty in evidence preservation

Evidence preservation for consumer fraud in e-commerce faces three core challenges: the mutable nature of evidence, anonymous subjects, and high technical barriers. The specific difficulties and corresponding typical case scenarios are shown in Table 1.

In summary, firstly, conventional product fraud often suffers from fragility in the chain of evidence, leaving consumers helpless against the consumer fraud of e-commerce operators. Therefore, in virtual transactions, proving that "what was received is what was purchased" is the key to safeguarding rights. If there is a lack of continuous, uninterrupted audiovisual evidence (such as an unboxing video showing the tracking number), the chain of evidence is easily broken.

Secondly, for consumers facing technical fraud like "big data-enabled price discrimination," evidence collection is even more challenging [6]. For example, when platforms use algorithms to analyze user data and implement different pricing for the same product or service,

regarding the price differences, it is difficult for individual consumers to detect them [7]. Pricing algorithms are the platform's core trade secret and a "black box." It is almost impossible for consumers to obtain its internal logic or data to prove "discrimination." E-commerce platforms often defend themselves with reasons like "promotional strategies" or "discount differences." It is extremely difficult for consumers to prove the existence of fraudulent intent.

Table 1. Difficulties and Typical Case Scenarios in Evidence Preservation for Consumer Fraud in E-Commerce

Difficulty Type	Core Challenge	Typical Case Scenario
Nature of Evidence	Electronic data is easily altered or lost; the chain of evidence is easily broken; original storage media are difficult to secure.	Purchasing a "brand new" learning machine on a second-hand platform; lacking unboxing video, unable to prove the problematic product came from the seller.
Nature of Actors	Operator identity is virtual and easily concealed; numerous transaction links with dispersed subjects.	In an online counterfeit sales case, upstream and downstream contacts relied solely on single-line mobile phone communication; key involved mobile phones were not recovered, making tracking difficult.
Technical Nature of Behavior	Algorithm black boxes make evidence collection difficult; live streaming's immediacy makes evidence preservation difficult; strict scrutiny of electronic evidence authenticity.	"Big data-enabled price discrimination" relies on complex algorithms; consumers find it difficult to prove price differences and discriminatory intent.

3. Legal Constituent Elements of Consumer Fraud in E-Commerce

3.1 Element of Subject: Diversification of Actors

3.1.1 Direct implementing actor–e-commerce operators

E-commerce operators include e-commerce platform operators, operators within platforms, and e-commerce operators who sell goods or provide services through self-built websites or other network services.

(1) E-commerce platform operators

If an e-commerce platform (legal person or unincorporated organization) fails to fulfill its review obligations or participates in fraudulent behavior, for example, if the e-commerce platform tacitly allows operators to engage in false advertising, according to Article 38 of the E-commerce Law, the e-commerce platform may become a subject bearing joint and several liability.

(2) Platform-based operators

For example, platform-based e-commerce operators (legal persons, other organizations, or natural persons) need to possess business qualifications. For instance, merchants deceive consumers through means like fabricating product information or brushing orders [8].

3.1.2 Indirect participants in e-commerce transactions

In e-commerce transactions, besides the main e-commerce operators, third-party service providers may also be involved. For example, logistics companies forging delivery records or payment platforms assisting in fund transfers may bear joint liability. For instance, an e-commerce platform was held liable for supplementary compensation because it failed to review a merchant's qualifications, leading consumers to purchase counterfeit goods.

3.2 Subjective Element–Fraudulent Intent and Purpose of Illegal Possession

Subjective fault includes intent and negligence. The subjective intent referred to here means that the e-commerce operator already knows that the information provided to the consumer is false and that this false information will cause the consumer to fall into error, but the e-commerce operator still provides this information to the consumer or allows the consumer to obtain it. This mental attitude of the e-commerce operator constitutes subjective fraudulent intent [9].

3.2.1 Fraudulent intent

(1) Direct intent

When an operator, clearly aware that their fraudulent consumer behavior will cause the consumer to fall into a mistaken understanding, still actively pursues this outcome, this constitutes direct intent.

(2) Indirect intent

The e-commerce operator adopts a permissive

attitude towards the fraudulent consequences, commonly seen when e-commerce operators tacitly allow order brushing.

3.2.2 Purpose of illegal possession

E-commerce operators obtain economic benefits directly or indirectly through fraudulent behavior. For example, e-commerce operators fabricate promotional activities to induce consumers to pay deposits and then abscond with the funds.

3.3 Element of Object – Infringement of Dual Legal Interests

3.3.1 Consumer property rights and right to know

Consumers suffer direct property losses due to fraudulent behavior (such as paying a high price for inferior goods). The right to know is infringed, for instance, when operators deliberately conceal service risks associated with goods, constituting fraud against consumers.

3.3.2 E-commerce market order

Fraudulent behavior implemented by e-commerce operators destroys the fair competition environment and damages the interests of other e-commerce operators.

3.4 Objective Element–Causal Relationship between Act and Consequence

3.4.1 Implementation of fraudulent act

(1) False Advertising

E-commerce operators fabricate product sales volume, forge user evaluations, or use false pictures or videos to defraud consumers.

(2) Concealment of Truth

E-commerce operators conceal product defects, service limitations, or additional terms. For example, if e-commerce operators do not clearly indicate automatic renewal, causing infringement of consumer rights.

(3) Fraud Using Technical Means

E-commerce operators use algorithms for "big data-enabled price discrimination," forge payment links (phishing websites), etc., infringing upon consumers' legitimate rights and interests [10].

3.4.2 Consumer's erroneous declaration of intent

The consumer forms a mistaken understanding due to the fraudulent behavior and makes a purchase decision based on this. For example, a consumer misjudges product quality due to inducement by "cash back for favorable reviews."

3.4.3 Occurrence of damaging consequence

Consumers suffer actual property losses. They may also suffer non-property damages: such as the infringement of consumers' legitimate rights and interests caused by personal information leakage [11]. For example, a live stream host engaged in false advertising; after consumers placed orders, the merchant refused to ship. The court determined this constituted consumer fraud.

4. Suggestions for Improving Legal Regulation

4.1 Refine the Criteria for Determining the Constituent Elements of Consumer Fraud

The state should issue judicial interpretations that define specific fraudulent consumer behaviors such as "false advertising" and "concealment of truth," clarifying the criteria for determining the constituent elements of consumer fraud in e-commerce scenarios.

4.2 Strengthen the Legal Liability of E-Commerce Platforms

Strengthen supervision of e-commerce platforms and enforce strict liability systems. Require platforms to establish dynamic review mechanisms, construct fraud warning systems, strictly monitor high-risk merchants, and strengthen the legal liability of e-commerce platforms.

4.3 Optimize the Rules for Evidence Provision by E-commerce Consumers

Drawing on provisions from the Consumer Rights Protection Law, promote "reversal of the burden of proof," requiring e-commerce operators to prove the absence of fraud themselves (refer to Article 23 of the Consumer Rights Protection Law). This approach aims to alleviate the burden on e-commerce consumers by placing the burden of proof on the e-commerce operators.

4.4 Enhance Technical Supervision

While artificial intelligence develops rapidly, strengthen technical supervision. Make full use of blockchain technology to secure electronic evidence and use artificial intelligence to identify abnormal transaction patterns, reducing the occurrence of consumer fraud in e-commerce.

5. Conclusion

In summary, the analysis of the constituent elements of consumer fraud in e-commerce requires dynamic consideration of the characteristics of the online environment. Clarifying the scope of subjects, subjective intent, infringement of dual legal interests, and the causal relationship between objective acts and consequences are key to determining consumer fraud in judicial practice. In the future, it is necessary to further improve the legal system and technical means, and build a multi-party collaborative governance mechanism to achieve a balance between consumer rights protection and the healthy development of e-commerce.

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