Regulating Crossing Border E-commerce by SC

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Abstract

Crossing border e-commerce develops rapidly because of e-commerce development. There are three typical modes of crossing border e-commerce, and they are B2B (business to business), B2C (business to customer), and C2C (customer to customer). With the development of social network, a new mode called C2C cross-border e-commerce by SC (social commerce) is occurring. This new kind of e-commerce has several advantages, like high trust between seller and customer and personalized consumption for customers. But there are still some problems of C2C cross-border e-commerce by SC, which are tax evasion and no rule to regulate. To solve these problems, several measures should be taken into account. In the area of Customs Law, it should refine the standard of luggage and post package taxation. The Custom should strengthen supervision for international post package. To deal with the problem that there is no law to regulate C2C cross-border e-commerce by SC, Contract Law is suitable before the E-commerce Law enacts.

Keywords

Crossing border e-commerce, C2C cross-border e-commerce by SC, custom law, customer protection act, contract law

Crossing border e-commerce is based on the development of Internet. In the area of transaction, the container order is gradually replaced by small order, which is more effective. There are three basic modes of crossing border e-commerce, they are business to business (B2B), business to customer (B2C), and customer to customer (C2C). C2C crossing border e-commerce recently grows rapidly because of the wide use of Social Networking Services (SNS). For customers, they prefer such kind of transaction for the reason: targeted, highly-trusted, and high-efficiency. For the sellers, they regard the social commerce (SC) as prevention strategy that avoids the supervision of transaction platform. Meanwhile, by using SNS, it is much more easier for sellers to find their target customers. Therefore, the new C2C mode is combined with SNS which is broadly used by sellers and customers called crossing border e-commerce by SC.

WHY THE NEW MODE IS POPULAR

Using SNS to do the crossing border e-commerce is a kind of SC. SC uses social network or Web 2.0 software tool to conduct business activities. SC is benefited for both sellers and customers (Gao and Hoeren 2016). Sellers have an effective way to save cost for finding target customers as well as inner management. As for the customers, their buying behavior is connected with SNS, and they may get more cheaper goods by negotiating with manufacturer directly, share the online shopping experience with their friends and relatives, learn shopping experience

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from others, and so on.

Crossing border e-commerce by SC is the combination of crossing border e-commerce and SC. Crossing border e-commerce by SC is also a kind of crossing border e-commerce, by which the sellers and customers use SNS to communication, and the trade is more flexible and effective. The sellers always live in the foreign country and can bring a certain number of goods to import. The reason why the new model is so popular in China is that it conquers the weakness of crossing border e-commerce platform.

Weakness of Platform

E-commerce is based on trust. In recent years, the scandal of e-commerce platform never stopped, such as the sales of fake goods, the cooperating team of Jingdong supplying the fake goods. Platforms are supposed to obey the fundamental principle, and have good faith. They take advantage of the legal loophole, as we all know, there is no statute to regulate e-commerce platform. Their behavior makes them bear legal liability as well as the loss of trust of customers. Another weakness is lack of customized service. B2C mode is bulk purchase with huge number and few variety. The customers of crossing border e-commerce pursue fashion and individuality, and same variety makes them seek new way to buy unique foreign goods. Obviously, the new path is crossing border e-commerce by SC.

High Trust

The relationship in SNS is strong tie among the friends and relatives. For the B2C mode, the relationship between customers and platform is weak tie. The period from weak to strong tie needs much time, and sometimes cannot build up trust. Crossing border e-commerce by SC can overcome the weakness of B2C mode, communicating with customers immediately. It is a good way to protect the right to know of customers who can realize more information

about the goods. Unlike the most B2C platform, customers' decision is merely by some pictures with no customer service or low-efficiency customer service; for instance, customers ask questions about the goods, one or two days later they may receive the platform's reply. In fact, some cooperating sellers in B2C platform are also the sellers in crossing border e-commerce by SC. They supply the goods for platform as well as customers directly. As the cheaper price and better service, increasing number of customers choose the C2C new mode.

Personalized Consumption

Most customers in the C2C new mode belong to middle class or rich layer. They pay more attention to the taste and brand in order to highlight social status. The customers want the most fashionable goods, including clothing, shoes, handbags, accessories, and so on, though the price is not in discount. Another feature of crossing border e-commerce by SC is personalized service; sellers have limited number of customers in SNS, and it is possible for customers to enjoy one-to-one service. Sellers buy goods when customers demand, not wholesale.

LEGAL PROBLEM

Tax Evasion

Crossing border e-commerce by SC is a way to tax evasion. According to the Custom Law, the single import goods exceed 2,000 RMB should pay customers duties. In crossing border e-commerce, most sellers live in foreign country and always post packet to customer. As a huge number of post packets, not all the goods that need to pay the duties can be checked by Custom. In other words, it is a kind of tax evasion. Especially, the main customers in crossing border e-commerce by SC are in middle class or rich layer, the price of their goods is always over 2,000. Tax evasion is illegal, in Chinese Law, and sometimes

may commit crime; it is necessary to regulate the increasing number of post packet with valuable goods (Chen 2011).

No Rule to Regulate

In 2014, the Consumer Protection Act was amended, and it was the first time to implement protection of on-line customers' rights. The Article 25 said, on-line customers have rights to return goods without any reasons, including on-line shopping and telemarketing. This article is welcomed by customers because law empowers them right to regret, that is pretty essential in the network transaction. But in fact, this article cannot be applied in crossing border e-commerce by SC. Without the supervision of platform, sellers will not allow customers to return goods because no one want to buy others' returned goods in the same price. Sometimes they regard the no return as principle in the area of crossing border e-commerce by SC, because it is a effective way to avoid the customers returning the fake goods instead of the original one. On the other hand, the dispute of crossing border e-commerce by SC cannot be accepted by the administrative department. For example, in Gansu province, the administrative department claimed that they do not accept the case when shopping is done through Wechat, QQ, or other chat tools. Up to now, there is no rule to effectively regulate crossing border e-commerce by SC.

HOW TO SLOVE LEGAL PROBLEM

Neither the Customs Law nor Consumer Protection Act can regulate the new mode of crossing border e-commerce. The reason is the hysteric nature of law; to be specific, laws always enacted when social problems occurred for a period. The crossing border e-commerce by SC is a new area of e-commerce and is still in the stage of development; the industry standard is not established, not to mention the law.

Stop Tax Evasion

As the first line faced with C2C cross-border e-commerce by SC, customs legislation and its regulatory strength should be improved to offset existing loophole in these respects. Firstly, taxation institution on luggage and postal articles should be established to ensure that there are laws in place to be enforced by customs officers. The customs' supervision on travelers' luggage and postal articles has long been carried out on the principle of "reasonable quantities for personal use", but actually, many other factors should be considered. Therefore, the discretionary power should be limited with the way to change the "reasonable quantities for personal use" into quantitative standard. For instance, South Korean customs list the standard of luggage and postal taxation. The refining standard can be referenced by Chinese customs to define the standard of luggage and postal taxation (Chen 2011). To be specific, the post package tax should be collected when the same consigner posts several international packages within a day. First, both platform and supervision department supervise the sellers in platform. To be more specific, when the platforms examine the sellers' application, not only do they check the form but also check whether the sellers have the qualification. When the sellers and customers have disputes, the platforms should provide evidence to supervision department. When the customers claim that they are cheated or violated by sellers, the platforms should check the appeal, and if it is true, the platforms should take measures like closing online shop, rectification, penalty, and so on. Secondly, as C2C cross-border e-commerce by SC is mainly based on social network software, the social network softwares also have responsibility to supervise. The functions of social network and transaction should be distinguished strictly. The network software is used to do social network not transaction. Therefore, the operator of social network software can supervise the content of

chat; if the sensitive words like cash, how much, paypal, and zhifubao appear too many times, the operator has the right to warn, close ID of software, and pipe off. The aim of the measure is leading the sellers do business in the platform not the social network software. In addition, for the supervision department, they firstly need the articles or law to carry out. China belongs to continental law system, and the action of supervision department should obey the rules or law. It is better for legislator to clear the jurisdiction of supervision department.

Analysis in Contract Law

As the C2C cross-border e-commerce by SC is a new area, no rule or law is enacted. When the disputes or cases come into the court, which regulations or laws can be used to solve a problem? According to the features of the C2C cross-border e-commerce by SC, it is suitable to cite Contract Law.

Contract Law in Chinese law system belongs to the civil law system that regulates the property and personal relationship among the equal subjects (Cui 2016). According to Article 2 of Contract Law: the Contract Law regulates the property relationship among the equal subjects, which includes contract conclusion, validity of contract, contract performance, and so on. Contract Law is also a part of civil law system. The reason why the disputes and cases of C2C cross-border e-commerce by SC are the suitable subjects is the feature of this behavior and operability. The Contract Law regulates the relationship among the equal subjects. The sellers and customers in C2C cross-border e-commerce by SC are equal, that is different from the vertical relationship like Criminal Law and Executive Law. Then, the behavior of C2C cross-border e-commerce is transaction, and Contract Law regulates transaction. In addition, another feature of C2C cross-border e-commerce is a kind of electronic contract, and Chinese Contract Law is the first law that confirms the effective electronic contract. The Article 11, Article 16, and Article 34 are about the

efficacy and other regulations of electronic contract. Thirdly, cases of C2C cross-border e-commerce by SC are possibly accepted by courts because the sellers and customers have the others' detailed information of each other. The lawsuit needs both parties' real name, address, contact information, and so forth. In the B2C platform, it is hard for customers to get the real identify of sellers. When the customers want to sue the sellers, the case may be rejected by the court because of the lack of the other side's information. There are some issues when people solve C2C cross-border e-commerce by SC case or dispute.

The time of efficient contract offer and contract commitment. According to Article 16 in Contract Law, the electronic contract's efficient time is when the contract arrived in the other party's particular system. The C2C cross-border e-commerce by SC is based on instant message, and the time of offer or commitment arrival is instant arrival (Xu 2011). Generally, customers invite offer and sellers make the commitment. If that the sellers show the detailed information like price, quantity in stock, quality, and so forth to customers is offer, the customers agreeing is commitment. If that sellers merely publish the general information in the social network is not offer but invitation to invite, the customers who tend to buy the goods invite offer. When stock-out occurs, if that the sellers recommend another goods is invite offer, the customers agreeing is commitment.

Withdrawal and revocation of contract offer. According to Article 17 of Contract Law, the contract offer can withdraw and need certain conditions which are: the offer is already sent; the offer does not take effect; the announcement of withdrawal arrives before the offer or they arrive at the same time; and the content of the announcement of withdrawal is to withdraw the offer. For the C2C cross-border e-commerce by SC, withdrawing offer is basically impossible for the simple reason that the trade is based on instant message. But for the C2C cross-border e-commerce by SC, the offer can be revoked on

account of Article 18 of Contract Law. The contract offer can revoke and need certain conditions which is: the announcement of revocation arrives before the offer or they arrive at the same time. It is possible for one side of the C2C cross-border e-commerce by SC to revoke the offer when it satisfies the conditions in Article 18.

Confirm the efficacy of exceptions. There is a latent rule of C2C cross-border e-commerce by SC, which is no sales return. Even the goods have the quality problems, not all the sellers help the customer return goods. C2C cross-border e-commerce by SC is a special kind of business. Most sellers purchase goods in foreign country, and the process of sales return may cost long time; especially when the goods are purchased at a discount, sales return is nearly impossible. On the other hand, a certain number of customers use the fake goods to replace the true one when they make sales return. So, in C2C cross-border e-commerce by SC, most sellers firstly announce the customers that no sales return. In Chinese Contract Law, it allows both sides make deal that one side has limited duty or exception clause. The efficacy of exception clause is valid. When the exception clause satisfies the conditions which are the both sides making appointment depend on their real will, the exception clause itself is legal. Therefore, in most situation, the exception clause is valid. When customers decide to buy goods in C2C cross-border e-commerce by SC, they should pay attention to exception clause.

Fine of deposit. In C2C cross-border e-commerce by SC, sometimes the sellers may ask the customers to pay a part of goods price as earnest before the sellers purchase (Lu 2014). In fact, if the customers break the the contract, he or she will bear fine of deposit. But if the sellers break the contract, they hardly return double earnest. According to Contract Law, the subjects are equal. When one side breaks the contract, no matter sellers or customers should obey; but the

fact is: sellers always refuse to pay the fine when they break the contract.

CONCLUSIONS

Faced with the new area, it always has no law to regulate. The problem of new area is growing rapidly. Therefore, both industry insiders and legislator should take responsibility to build the system of rules. The industry insiders should build code of practice to encourage the development of C2C cross-border e-commerce by SC. For the legislator, they should enact law to regulate C2C cross-border e-commerce by SC.

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