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Regulating Accountability Evasion Risks of E-Commerce Platforms under the Transformation of Consumption Patterns

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Abstract: *Digital consumption has intensified e-commerce platforms' control, creating novel liability avoidance risks. Traditional legal frameworks, hindered by outdated principles like "technological neutrality," struggle with platform evolution, facing dilemmas in identifying liable parties, protecting services, and allocating liability fairly. This paper analyzes how platforms dominate transactions (e.g., via algorithms, payment oversight) and reveals the resulting erosion of consumer sovereignty through expanded "private power." The solution advocates reforming local practice by centering on the Consumer Protection Law. This involves systematically reconstructing platform liability rules: expanding "operator" definitions, clarifying platform services as "consumption services," and developing tailored liability types.*

Keywords: *Platform Economy; Digital Consumption; Risk Aversion; Liability Reconstruction; Law on the Protection of Consumer Rights and Interests*

1. Raising the Issue

Digital technology's deep integration has structurally transformed e-commerce consumption, elevating platforms from mere transaction facilitators to core players controlling the entire process via data and algorithms. [1] This dominance, coupled with platforms' simultaneous "strengthened control" and "liability avoidance," systemically threatens consumer sovereignty. Regulatory proposals like platform rule transparency and ethical AI address the core tension between platform liability and consumer rights, demanding a rebalancing of responsibilities. Current laws, constrained by "technological neutrality," fail to curb platforms' expanding private power. Platforms exploit loopholes through business innovations to shift liability, circumventing E-commerce Law prohibitions. [2] Judicial practice is paralyzed by fact-finding difficulties, liability chaos, and inconsistent rulings. This paper argues for reforming the Consumer Protection Law. By redefining "operator," clarifying platform service attributes, and innovating liability rules, a new consumer-centric liability framework can activate the law's tilted protection role in the digital ecosystem.

2. Changes in E-commerce Platforms’ Transaction Control and the Generation of Legal Risks

2.1 Evolution of Consumption Service Architecture and the Structural Strengthening of Platform Control

In the traditional architecture of the early internet economy, platforms primarily acted as "technical intermediaries," providing information matching and virtual spaces, with limited and neutral control. Liability determination followed Article 44 of the Consumer Protection Law and relevant rules of the Civil Code, with platforms often assuming supplementary or joint liability. The improvement of infrastructure such as logistics and payment systems, and the application of technologies like AI and blockchain, have propelled platforms into a new "digital consumption" phase, forming a new consumption service architecture. Key changes include: (1) Service monopolization: Platforms control 85%-90% of consumption traffic distribution, becoming the core of the ecosystem. Consumer dependence on their technical services has increased unprecedentedly. (2) Service dominance: Platform control has extended from the post-transaction stage to the pre-transaction stage. Through algorithmic recommendations, platforms guide consumer choices; via dispatching mechanisms, they create information black boxes for service providers; and through smart contracts, they meticulously manage capital and logistics flows, achieving substantial control over the entire transaction process. (3)

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Compound revenue: Breaking free from the traditional perception of "gratuitous intermediaries," platforms directly profit through multilayered commissions, data monetization, and other channels, with increasingly complex and diversified profit models. (4) Rule autonomy: Platforms' closed credit evaluation and dispute resolution mechanisms, empowered by their control over funds, exert de facto binding force. However, their adjudication standards lack transparency and fairness, forming "private power" that transcends legal enforceability.[3]

2.2 New Legal Risks Arising from Expanded Control

The dissimilation of platform control has spawned two core risks: The first one, Risks of Consumer Sovereignty Erosion: Platforms utilize data aggregation to build "data pastures" and subject consumers to algorithmic discipline, leading to asymmetric oppression. Misled by "technological neutrality," consumers often misinterpret algorithmic manipulation as market choice; Platform control is covert, making it difficult for consumers to perceive algorithmic intervention throughout transactions; High costs of small-value, decentralized rights protection, coupled with platform-induced reliance on internal dispute mechanisms, induce consumers to cede litigation sovereignty, creating institutional exclusion. The other one, Risks of Strategic Liability Transfer. Platforms have transformed liability avoidance into a systematic strategy: Using incomplete labor models (e.g., crowdsourced riders) to sever labor relations, shifting quality defect risks to frontline service providers; Blurring the boundaries of self-operated businesses and invoking the "technical intermediary" identity to evade operator liability under the Consumer Protection Law; Exploiting the limited applicability of Article 44 of the Consumer Protection Law (e.g., pre-disclosure of information in in-person services, rendering platform intermediary liability nominal). This mismatched structure of "risk transfer-profit monopoly" allows platforms to retain substantial control while successfully avoiding legally commensurate liabilities.

3. Causes of the Lag in Traditional Legal Frameworks for E-commerce Platforms

3.1 Disconnect Between the Consumer Protection Law System and the Digital Era

Its regulatory system remains rooted in "product-centrism," struggling to adapt to the "service-dominated" digital economy. [4] Damage compensation rules are generally outdated: while the Civil Code has established a punitive compensation ladder (Article 1207), Article 55 of the Consumer Protection Law still adheres to the "fraudulent act + fixed multiple" approach, insufficiently deterring malicious infringement such as algorithmic discrimination and big-data price discrimination. Over 60% of consumers turn to the Civil Code due to evidentiary difficulties under the Consumer Protection Law, rendering its preventive function nominal and creating a "paradox of generalization of special law."

Ambiguity in subject scope: The Consumer Protection Law fails to clearly define "operators," leading to identification dilemmas for C2C individual sellers, B2B dual operators, and platforms themselves, weakening the effectiveness of consumer claims. Absence of service regulation: There are no definitions, typological standards, or liability principles for services. Rules such as Article 44 are better suited for product scenarios, forcing 41.7% of disputes in online education, medical aesthetics, and other services to reference the Product Quality Law, resulting in "commodification" of adjudication. The absence of procedural obligations specific to platforms makes it difficult to hold them accountable for "covert infringement."

3.2 Normative Deficiencies in Defining Platform Legal Attributes and Inadequate Liability Determination

Disparate terminology across laws—"network transaction platform providers" (Consumer Protection Law Art.44), "e-commerce operators" (E-commerce Law), "network service providers/operators" (Cybersecurity Law), and "network service providers" (Civil Code)—fuels dual cognitive conflicts: platforms as market operators versus neutral governance subjects. The mainstream governance subject theory emphasizes platforms' public management role while overlooking their inherent profit motivation.[5] This overempowerment, failing to achieve effective governance, has instead exacerbated "shadow regulation," creating a paradox of rights expansion. Current liability rules, modeled on offline venue managers, impose fault-based intermediary liability (joint/supplementary) only for damages stemming from failure to take necessary measures. This approach neglects platforms' structural transformation into core transactional nodes, resulting in triple dilemmas: (1) A vacuum in liability for new labor forms, where crowdsourcing weakens traditional employment/contract

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dependencies, rendering conventional rules inapplicable; [6][7] (2) An absence of direct liability for platform-caused harm, lacking bases for holding platforms directly responsible when their technology (e.g., program defects) causes damage; (3) Limited applicability of Consumer Protection Law Art. 44, where pre-disclosure of information for in-person services renders platform intermediary liability nominal, failing to address infringement risks during service performance itself.

4. Reconstruction of E-commerce Platform Liability under the Consumer Protection Law Path

To overcome obstacles in applying the Consumer Protection Law, platforms must first be included in the "operator" category. Traditional theories that negate platform operator status based on "profitability" and "independence" are outdated: (1) Reconstructing the scope of "business activities": This includes platform virtual technical services and transaction organization, breaking free from restrictions on "substantive content provision." (2) Revising the "profitability" standard: Shifting from formal profit results to substantive profit purposes, recognizing new interest carriers such as data and traffic. Even if platforms are "free" to consumers, their sustained and stable profits through merchant commissions, data monetization, etc., satisfy the essence of profitability. (3) Expanding the scope of profitmaking activities: Recognizing the subject qualification of entities that engage in profitmaking activities towards consumers even if not originally established for profit ; broadening the scope of profit recipients to all market entities participating in platform services .[8]

There is an urgent need to build a service protection framework in the Consumer Protection Law, explicitly including platform services: Adding service definitions and typological clauses: Define "consumption services" in the general provisions (services meeting daily needs) and distinguish: (1) Basic services: Direct consumption objects (e.g., education, medical services); (2) Ancillary services: Services provided to facilitate consumption (e.g., platform services). Platform services, as ancillary services, are characterized by control, compensability, and consumption. Their comprehensive performance (matching, payment, credit evaluation) independently or jointly affects consumer rights, and these services differ fundamentally from the "network services" (access, storage) under the Cybersecurity Law. Platform services are defined as: "Comprehensive services provided by e-commerce platform operators to users, centered on facilitating transaction functions, including basic services such as network access and information storage, as well as control-oriented services such as transaction matching, payment settlement, credit evaluation, and after-sales support."

Given the complexity of platform services, a hierarchical liability system must be constructed. Platform service liability possesses both contractual and tortious attributes. Under the "action-object" model, liability principles vary by service type: object-based services (e.g., customized goods) trigger no-fault liability akin to product liability; action-based services (e.g., consulting) operate under a presumption of fault; superimposed services (most platforms) require tailored liability principles. Consequently, platform liability manifests in three layers: Independent Tort Liability arises directly from platform actions causing damage (e.g., algorithmic errors), governed by fault or no-fault principles. Nonindependent Regulatory Liability applies fault liability for platform dereliction in vetting incorporated operators or failing to take necessary measures (e.g., E-commerce Law Art. 38). Crucially, Related Non-Genuine Joint Liability is proposed: platform performance and operator performance jointly constitute the overall consumption performance. Due to platforms' dominant transaction control and exacerbation of consumer relief difficulties, platforms should bear non-fault non-genuine joint liability for operator infringement damages—analogous to a seller's status in product liability—granting consumers direct claims against platforms (with recourse rights preserved). This transcends the "notice-takedown" model's limitations, aligning profit and risk. Legislatively, this necessitates a dedicated services chapter in the Consumer Protection Law systematically defining services and liabilities, plus revisions to Articles 40 (liability principles) and 44 (platform liability) clarifying operator identity, service attributes, and the related non-genuine joint liability.

5. Conclusion

While the platform economy invigorates the consumer market, the unregulated expansion of platform control has spawned systemic risks of liability avoidance, rooted in the lag of traditional legal frameworks in responding to the evolution of platform roles and the essence of digital services. The solution lies in local practices, reconstructing liability with the Consumer Protection Law as the core: functionally expanding the "operator" identity to include platforms in the liability subject category; clarifying the "ancillary consumption service" attribute of platform services to lay the foundation for

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protection; and innovating typed liability rules, particularly establishing related non-genuine joint liability for platforms in relation to operators' infringement acts, to match their control and profits. Only through these measures can we reverse the persistent erosion of consumer sovereignty, build a digital consumption ecosystem with balanced rights and responsibilities, fairness, and credibility, and consolidate the legal foundation for the regulated, healthy, and sustainable development of the platform economy.

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