

Research on the Legal Regulation of "Professional Claims" Behavior

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Abstract: *With the burgeoning of the internet economy, the behavior of "professional claiming" has emerged. Those engaging in "professional claiming" often aim for unlawful possession. They exploit non-functional or non-substantial defects in product packaging, labeling, or advertising slogans, seeking profits through threats, intimidation, or coercion. Many consumers praise these behaviors, viewing them as acts of "justice on behalf of Heaven." However, the act of purchasing defective products in bulk for compensation not only profanes the law but also disrupts the regular consumer market to a certain extent. Distinguishing whether such behavior is an exercise of rights or an act of extortion remains a challenge in social governance today. Simultaneously, exploring the legalization of "professional claiming" behavior is a future challenge we must face.*

Keywords: *Internet Economy; Professional Claiming; Profaning the Law; Disruption of the Consumer Market; Legalization*

1. Introduction

"Professional claiming" refers to acts within the legal domain where individuals or organizations, motivated by economic interests, intentionally fabricate, exaggerate, or abuse their legitimate rights to seek unreasonable or unfounded compensation. Such behavior often manifests as an abuse of legal procedures to pursue undue economic gains. Compared to legitimate claims, "professional claiming" typically shows impropriety in its motivation, means, and outcomes. In summary, "professional claiming" is an improper act of seeking economic benefits characterized by deceit, exaggeration, abuse of legal rights, and frequent lawsuits. This behavior undermines the fairness, justice, and trust in the law. It necessitates stringent legal countermeasures to uphold legal order, maintain a fair competitive environment, and foster healthy socio-economic development. However, social surveys also have defined a new role for this behavior: "Public Interest Buyers." This will aid in-depth research on the behavior of "professional claiming" in both law and sociology.[1]

2. Problem Formulation

In the highly developed network economy, governance issues have become increasingly complex and diverse. Traditional administrative governance methods are showing signs of weakness. "Governance points to new governance processes, new governance rules, and new ways of governing society." Protective laws such as the "Consumer Rights Protection Law" have been reflected in legislation. On August 8, 2019, the General Office of the State Council issued the "Guiding Opinions on Promoting the Standardized Development of the Platform Economy," further clarifying the need to legally combat online fraudulent activities and extortion activities carried out under the guise of "anti-counterfeiting." This was also the first concrete expression of "professional claims" in national policy guidance.

"Professional claimants" often exploit product defects for excessive complaints and illegal profit. Their nitpicking-style reports and complaints about issues such as improper product packaging and non-compliant labels are gradually taking on the characteristics of threats from the online gray market, becoming an integral part of the gray economy in the business sector.

Subsequently, on October 21, 2019, the "Opinions on Handling Several Issues Concerning the Use of Information Networks to Commit Crimes by Criminal Elements" issued by the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, and the Ministry of Justice,

further stipulated that those who use information networks to threaten, extort others, and demand public or private property in relatively large amounts, or repeatedly engage in such behavior, shall be punished for the crime of extortion as stipulated in Article 274 of the Criminal Law. The issuance of these opinions not only serves to combat "professional claims" but also defines such claims. The nitpicking-style "extreme" claims highlighted the extortionate and unfair nature of the overall behavior.

However, in regard to "professional claims," disputes over how to define them have persisted since the establishment of the punitive compensation mechanism in the "Consumer Rights Protection Law." From the perspective of consumers, "professional claimants" are considered righteous individuals who uphold consumer rights and market fairness, and their actions are seen as legitimate civil rights exercises[2]. However, from the perspective of businesses, the behavior of "professional claimants" is deemed extortion and blackmail, an unjust means of seeking rapid profits. Thus, even with relevant laws and regulations as a basis, the judicial determination of whether their actions constitute the legitimate exercise of rights or extortion remains ambiguous. This presents new challenges for social development.

3. Real Challenges in Combating "Professional Claims"

The practice of "professional claims" is diverse, leading to inconsistent application mechanisms and potential difficulties in determining appropriate punishments. However, as a crucial component of maintaining the online ecosystem, it poses a significant contemporary legislative challenge.

3.1 Ambiguous Legal Discretion Standards, Difficult Quantitative Punishments

In cases of "professional claims," claimants often lack any genuine indication of error or being misled as consumers. Instead, they resort to unlawful methods such as coercion, violence, or soft violence to achieve their profit-driven goals. This not only encroaches upon the boundaries of business interests but also creates an imbalance between protecting consumer rights and preserving business interests. To some extent, it disrupts the business environment and socio-economic order, conflicting with the original legislative intent of punitive compensation requests within consumer rights protection [3].

As per Article 15 of the "Interim Measures for the Handling of Complaints and Reports in Market Supervision and Administration of the People's Republic of China," complaints that do not involve the purchase or use of goods or services for daily consumption needs or cannot prove a consumer rights dispute with the accused party will not be accepted by market supervision and administration departments[4]. This implies that "professional claimants" need to demonstrate a prior consumption-related dispute or make a new consumption to file a complaint. However, to circumvent legal risks, these claimants often engage in "team efforts," inducing multiple individuals to purchase goods eligible for claims and organize group complaints with threats to demand compensation, thus cleverly evading legal consequences and executing their claims.

3.2 Inadequate Business Qualifications, Challenging Qualitative Punishments

Article 55 of the "Consumer Rights Protection Law," Article 148 of the "Food Safety Law," and Article 3 of the "Supreme People's Court's Provisions on Several Issues Concerning the Application of Law in the Trial of Food and Drug Dispute Cases" constitute the three major legal weapons for "professional claimants" in their rights protection efforts, forming a common vulnerability for businesses.

However, considering the legislative intent of the "Food Safety Law" and "Consumer Rights Protection Law," the purpose of empowering consumers with the right to demand triple or tenfold compensation for unpaid goods is to increase the illegal costs for food producers and operators, thereby encouraging lawful operations and purifying the food production and market environment[5]. In reality, due to operational challenges and potential high costs associated with obtaining business qualifications, smaller-scale operators face significant hurdles. Hence, the inadequacy of business qualifications becomes one of the pathways exploited by "professional claimants" to take advantage of legal loopholes.

4. Measures to Address "Professional Claims" Behavior

4.1 Specific Legal Discretion Standards to Reduce Legal Loopholes

The ambiguity of legal discretion standards often leads to subjective and uncertain judicial rulings, potentially fostering legal loopholes. To address this issue, it is necessary to concretize legal discretion standards to provide clearer and fairer ways of handling cases.

Take medical malpractice claims as an example. In many legal cases, determining the existence of medical malpractice and whether compensation should be awarded to medical personnel often hinges on the vague concept of "medical standards." Due to the lack of clarity in these standards, judges may be influenced by subjective factors during decision-making, resulting in rulings that do not align with the facts. This is a significant reason behind the occurrence of medical disputes.

Hence, to reduce legal loopholes, ensure consistency and fairness in legal rulings, and safeguard public interests, it is imperative to concretize legal discretion standards. This would also help uphold the integrity of the legal system and enhance the credibility of the judiciary.

4.2 Combat "Professional Claims" Behavior and Establish Appropriate Rights Protection Models

Combatting "professional claims" behavior not only effectively upholds legal order and fair competitive environments but also reduces the risk of abusing legal avenues, thus safeguarding the authority and credibility of the legal system. Simultaneously, addressing "professional claims" behavior contributes to promoting reasonable litigation and social justice. False claims not only waste judicial resources but may also undermine the proper recognition of legitimate claims.

5. Governance Experience and Practices in Addressing "Professional Claims" Behavior

In recent years, "professional claims" behavior has been characterized by relentlessly targeting minor errors of businesses. Even in cases where administrative authorities have already lawfully addressed the issue, "professional claimants" still resort to various illicit means to exert further pressure on businesses, coercing them to concede to unreasonable and unjust demands. Consequently, this behavior not only disrupts a healthy business environment but also induces a sense of apprehension among numerous enterprises. Faced with this phenomenon, various regions have introduced measures to curb its persistence.

For instance, according to Article 97 of the "Shenzhen Special Economic Zone Food Safety Supervision Regulations," when the departments responsible for food and drug supervision and consumer councils handle complaints and reports related to food safety issues, if they find that the complainant goes beyond reasonable consumption or predominantly relies on compensation or rewards as a primary source of income, the investigation can be terminated, and relevant clues can be included in the scope of food safety risk monitoring. However, this excludes cases that may trigger food safety accidents or involve suspected crimes. This regulation can be seen as a stern response to "professional claims," effectively restoring confidence in business development. Moreover, this regulation efficiently curtails the occurrence of frequent and unsubstantiated complaints, reducing the consumption and waste of administrative resources and directing legal measures towards solving actual issues.

In alignment with Shenzhen's approach to combat "professional claims," Shanghai has also taken similar steps. In 2022, Shanghai's revised "Shanghai Consumer Rights Protection Regulations" clearly stipulate the establishment of an "Abnormal Complaint and Report Registry" to lawfully regulate profit-driven professional claims, sending a strong signal against deceptive claims. After the promulgation of this regulation, Jinshan District creatively interpreted and implemented the regulation's requirements in light of the large number of registered businesses in the district. Drawing upon the broader goals of optimizing the business environment, boosting consumer confidence, and enhancing the construction of a social credibility system, Jinshan District's judicial department introduced innovative measures to counteract "professional claims." Feedback from the Jinshan District Judicial Bureau suggests that since the implementation of these measures, there has been a significant decrease in the number of complaints and reports, coupled with a substantial increase in consumer satisfaction. Going forward, the Jinshan District Judicial Bureau will continue to guide the local market supervision bureau, regularly maintain and update the Abnormal Complaint and Report Registry, and collaborate with relevant judicial departments to enhance the efficacy of execution, serving as a model and

contributing to Jinshan's intelligent governance.

6. Exploring the Legitimate Path of "Professional Claims"

In our preventive measures, it's highlighted that nations should strictly combat "professional claim" behaviors to standardize the commodity economy and maintain a healthy market order. But is "professional claiming" completely indefensible? I believe not. Legitimate "professional claims" can regulate market order and provide an added layer of protection for consumers to purchase quality goods.

Taking the news from the central radio network on August 10, 2023, as an example: Due to failures in performing required inspections and stopping illegal practices, and facing administrative penalties for consumer fraud more than twice within a year, the Sanya Tianya Friendship Laid-off Workers' Seafood Processing Plaza was recently fined 100,000 yuan by the Sanya City Integrated Administrative Law Enforcement Bureau. The whistleblower was indeed consumers who fight counterfeits everywhere. This penalty set a historic record in Sanya and serves as a warning and model for other seafood markets in Sanya and the entire country.

These "professional claimants," with their legal acumen and keen market insights, can rapidly tackle counterfeits, a feat many ordinary consumers might find challenging. However, when "professional claims" are driven by economic motives, exaggerating truths or misusing legitimate rights to seek unjustified compensations, they become illegal and reprehensible. To promote the legalization of "professional claims," it's essential to transform claims into anti-counterfeiting actions, bringing them under government regulation as a state-specialized "anti-counterfeit" team. This is a governance approach that we must explore in the future.

At the Wuzhen World Internet Conference, Ma Yun, co-chairman of the Global Internet Governance Alliance and Chairman of the Alibaba Board, stated that technological and ideological changes would inevitably bring various dissatisfactions and chaos. Yet, societal progress is unstoppable. With the growth of the digital economy, exploring new governance methods is both a societal and popular demand. How to transform unfavorable factors into societal assets is a question for individuals, society, governments, and the world. While explorations might face resistance and dissatisfaction and might even fail, they shouldn't be reasons for stagnation.

6.1 Establishing Legitimate Identity and Transforming Benefit Relations

One significant reason for the criticism of "professional claims" is their frequent exploitation of legal articles, such as Articles 55 of the "Consumer Rights Protection Law," Article 148 of the "Food Safety Law," and Article 3 of the "Regulations on Legal Issues in Food and Drug Dispute Cases" by the Supreme People's Court, to illegitimately seek compensations. To advance the legalization of "professional claims," it's crucial to transform these benefit relations.

Taking the reform measure of forest resource management and conservation responsibility system implemented in the Heilongjiang Forest Area as an example: This region once suffered greatly from illegal logging. To promote forest conservation, the area divided the forests and auctioned them to former loggers, now employees, for protection and management. This way, the number of people protecting the forests increased immensely, with tens of thousands of former loggers becoming guardians. With most forestry bureaus not experiencing fire alarms during the fire prevention seasons this year, illegal logging cases decreased significantly. This new governance approach can similarly be applied to professional claimants.

By providing professional legal training and guidance to claimants and including them under national regulation, while converting their role from "claiming" to "anti-counterfeiting" and providing a salary, each "anti-counterfeiter" would supervise their designated area. Such measures not only encourage businesses to produce legal and compliant goods but also prevent "professional claims."

6.2 Correcting Ways of Claiming Rights and Preserving Market Order

To quickly profit, "professional claimants" often buy flawed products in bulk and go to "extreme" lengths to protect their rights. They might threaten businesses verbally or give them bad reviews, thus trampling on legal principles. To advance the legalization of "professional claims," it's indispensable to rectify these paths of redress.

Legitimate rights protection must follow legal procedures. Due to the uncertainty in the interpretation and application of laws, procedural justice offers a sense of certainty that substantive justice might lack. Therefore, by adhering to legitimate rights protection channels, "anti-counterfeiting" becomes an acknowledged act, which both upholds consumer interests and fosters socio-economic development. This approach not only taps into the market insights of former "professional claimants" but also upholds the market's regular order.

7. Conclusion

Throughout the course of this discussion, we have observed the illegitimacy of "professional claims" behavior. The manipulation and coercion exercised by "professional claimants" for rapid gains not only disrupt the normal course of business but also undermine the confidence of enterprises in their operations. Concurrently, in our analysis of legal provisions, we have identified the shortcomings and gaps within contemporary laws and regulations, highlighting areas that require further refinement in the future.

In the current landscape of advanced commodity and digital economies, completely eliminating "professional claimants" is neither feasible nor practical. The challenge we must face in the near future is how to transform these individuals who teeter on the edge of legality into forces that benefit the nation, enterprises, and consumers.

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