

## **Brief Analysis on Legal Risk of International Marketing of Cross-Border e-Commerce**

**Ma Bin**

Xi'an International University, Xi'an Shaanxi, 710077, China

**Keywords:** Cross-border e-commerce, Legal risk, Risk prevention countermeasures

**Abstract:** Cross-border Electronic Commerce is the full name of Cross-border e-commerce, compared with domestic E-commerce, the marketing of cross-border e-commerce is related to the international market, in which the political factors and legal systems are quite different in different countries. So, there are many legal risks in the process of carrying out international marketing by the cross-border e-commerce enterprises in China, which restrict the development of cross-border e-commerce. Based on the current developmental situation of cross-border e-commerce in China, this paper sums up the legal risks of international marketing of cross-border e-commerce, and puts forward some targeted countermeasures according to the specific risks.

### **1. Introduction**

Under the background of global economic integration, China's foreign trade volume is increasing, and the cooperation with other countries becomes more and more. Influenced by the trend of e-commerce, the total volume of cross-border e-commerce in China is increasing rapidly; but at the same time, the legal risks in the process of the international marketing of cross-border e-commerce are also gradually highlighted, which have caused serious constraints on the development of cross-border e-commerce in China. Under this background, it is of great significance to analyze the legal risks of international marketing of cross-border e-commerce enterprises in China, so as to realize the sustainable development of cross-border e-commerce in China.

### **2. The Current Developmental Situation of Cross-Border e-Commerce in China**

From the perspective of scale, E-commerce Research Center of China said that the total trading volume of cross-border e-commerce transactions in China has exceeded 7 trillion Yuan in 2018. It increases 16.4% over the previous year, in which 79.1% of the volume is exportation and the rest is importation. Under the influence of the post-crisis era, the global economy has shown a growth trend of decline since 2008, and the overall development trend of China's foreign trade is downsizing. However, cross-border e-commerce has shown the characteristics of sustainable growth, which has become an important supporting point of China's foreign trade and made an important contribution to China's economic development.

From the perspective of the main participators of cross-border e-commerce, a large number of cross-border e-commerce platforms have come into being with the rapid development of cross-border e-commerce in China, the main platforms are Alibaba, Global Commerce, Made-in-China.com, etc. The main overseas markets are the United States, the European Union, the ASEAN, Chinese Hong Kong, South Korea, Japan and so on.

From the perspective of the areas in China, the development of cross-border e-commerce in China is unbalanced in different area. The volume of cross-border e-commerce in the coastal area accounts for more than 70% of the country; the central area, accounts for about 20%, and the western area and the northern area account for 10%. But from the point of view of the growth trend, the growth rate in the central area is very fast, with an annual growth rate of about 45%.

### **3. Induction of Legal Risks of International Marketing of Cross-Border e-Commerce**

### 3.1 Product Quality Risk

Product is the basis and key part of international marketing of cross-border e-commerce. Under the background of the constant development of cross-border e-commerce in China, the risk of product quality begins to highlight gradually. At present, the product quality problems of the cross-border e-commerce platforms are very urgent, the main reasons are as follows:

First, the improper behavior of “low price first” in the domestic market has begun to spread to cross-border e-commerce market. Some business dealers or enterprises of cross-border e-commerce begin to sacrifice product quality in order to expand their market shares and reduce their costs. In the cross-border e-commerce industry, supply, warehousing and retail are parts of the industrial chain, and the industrial chain will have a greater guiding effect on the transformation and upgrading of cross-border e-commerce and its upstream and downstream industries. However, it is precisely because of this unfair competition behavior of the cross-border e-commerce participants that the overall cross-border e-commerce industry does not have an obvious driving effect, which restricts the development of cross-border e-commerce in China. For example, in 2013, South Africa filed a quality lawsuit against China’s frameless glasses products, which directly brought mistrust of the South Africa buyers in the overall quality of China’s frameless glasses because of one company’s product quality defect.

Second, the current legal system lacks the content about quality control of cross-border e-commerce products in international marketing. From the existing legal system, although the *Network Transaction Management Measures* or the *Consumer Rights and Interests Protection Law* and other laws are in line with the rapid development of cross-border e-commerce, it is difficult to achieve real guidance on the product quality in cross-border e-commerce, which also makes it is difficult to carry out supervision work.

Third, the official departments of supervision is not clear enough. At present, the supervision departments of cross-border e-commerce mainly include industrial and commercial departments, customs departments, import and export departments, quality inspection departments, etc. There are too many supervision departments, so there may be problems such as intersection and overlap of supervision rights, so it is difficult to carry out quality management and supervision of the cross-border e-commerce products.

### 3.2 Cross-Border Payment Risk

Cross-border payment is one of the most important parts in international marketing of cross-border e-commerce. At present, there are two main payment methods in cross-border e-commerce: “online bank” and third-party payment platform. “online bank” may have credit risk, bank management risk and payment liquidity risk in the international marketing of cross-border e-commerce. Therefore, the relevant official departments such as CBRC(China Banking Regulatory Commission) should supervise these marketing activities; similarly, third-party payment platform may have capital security risk and so on. At present, the legal requirements of cross-border payment are different in different countries, such as the *Memorandum of Electronic Evidence* issued by the Philippine specifies the digital encryption and electronic signature in the process of cross-border e-commerce payment; while the United States has adopted different classification methods according to different electronic evidence. Different countries have different legislations, so in the process of international marketing of cross-border e-commerce, we should pay attention to the risks of cross-border payment.

### 3.3 Intellectual Property Risk

Although the current economic and legal systems of China have been in line with the international standards, but the legal protection of intellectual property still have some differences from the western countries. This leads to the fact that in the process of cross-border e-commerce, the domestic enterprises often faces an investigation for the infringement of intellectual property rights. For example, the PayPal case. In 2015, a large number of Chinese companies selling clothing have been prosecuted by some US companies because Chinese companies are suspected of selling

fake commodities, and the U.S. court has frozen the accounts of these Chinese companies. BY analyzing the reason, it can be found that the so-called infringement is, however, the fact that the Chinese companies have downloaded some pictures with the American company's trademarks in the course of propaganda without the authorization of the owner of the trademarks, so that the lawsuit is incurred. China's domestic electronic brand "Mi", for example, also frequently sinks into the dispute of patent case in the oversea market; the company has been forced to pay a large amount of cash deposit, and this also brings about an impact on the market share of its brand in foreign countries. It can be seen that the risk of intellectual property infringement in cross-border e-commerce is also very serious.

#### **4. Prevention Countermeasures of Legal Risks in International Marketing of Cross-Border e-Commerce**

##### **4.1 Perfecting the Construction of the Legal System of Cross-Border e-Commerce**

Since 2012, China has carried out a number of legal and policy documents on international marketing of cross-border e-commerce, but most of these documents are constructive proposals and lack of perfect legal standard. Therefore, in order to avoid the legal risks of cross-border e-commerce in international marketing, China needs to improve the construction of cross-border e-commerce legal system.

In the practical operation, first of all, it is necessary to actively explore and formulate the cross-border e-commerce legal system on the basis of the *Electronic Commerce Law*, so as to enhance the international competitiveness and legal supervision of China's e-commerce industry. At the same time, it is necessary to further improve the intellectual property laws such as the *Patent Law*, the *Trademark Law* and the *Consumer Protection Law* according to the actual requirements of cross-border e-commerce. In the process of perfecting the relevant laws, it is necessary to understand the relevant international laws and conventions well so as to achieve harmony with national laws and international conventions.

Secondly, it is necessary to establish a "cross-border e-commerce supervision department", change the problem of too many supervision departments and strengthen the supervision works, and optimize the functions of the supervision departments. We can ensure the product quality of cross-border e-commerce by adopting the blacklist system of cross-border e-commerce participators and so on.

Finally, it is necessary to strengthen the communication and cooperation between the domestic government and international organizations and foreign governments, adopt the principle of deepening common cooperation and mutual benefit, and explore a more harmonious cross-border e-commerce mode by active communication and deep cooperation.

##### **4.2 Strengthen Cross-Border Payment**

In order to avoid the legal risk of cross-border payment, it is necessary to strengthen the cross-border payment according to the existing problems.

First, we should strengthen the expansion of local cross-border payment platform in international marketing. At present, the large-scale cross-border payment market that is more than \$10 billion is dominated by foreign payment companies. The domestic cross-border payment platforms still have seldom right to speak in the current international marketing of cross-border e-commerce. For example, the total amount of cross-border payment of Alipay in 2013 is only \$1.2 billion, accounting for 4.9% of the total cross-border e-commerce in China. Compared with the local cross-border payment platforms, the foreign cross-border payment platforms require high brokerages, and they make harsh requirements for Chinese cross-border e-commerce companies, these are not conducive to the development of cross-border e-commerce in China, and the risks of cross-border payment can be easily incurred. Therefore, it is necessary to strengthen the construction of China's local cross-border payment platform and enhance the competitiveness of the local cross-border payment platform in the international marketing of cross-border e-commerce.

Second, at present, the domestic cross-border e-commerce payment platform should take the initiative to participate in the reform of the international cross-border e-commerce payment industry, improve online payment standards, improve dispute settlement rules, so as to achieve the improvement of cross-border e-commerce payment platform in China.

#### **4.3 Establish a Risk Prevention System for the Whole Process**

Different countries have different political conditions and legal bases, and the legal risks in international marketing of cross-border e-commerce are inevitable. Therefore, it is necessary to establish a risk prevention system for the whole process so as to avoid the impact of legal risks on the international marketing of cross-border e-commerce in China to the greatest extent.

First, preventing the risks in advance. Domestic cross-border e-commerce enterprises should establish the awareness of risk prevention, do a good job of research on overseas markets, and be familiar with the legal policies and usual risks of the targeted country and the target ed market. At the same time, domestic governments or judicial institutions also need to train the enterprises so as to help them understand international laws and policies of the targeted markets. We can also explore the mode of offshore outsourcing. By the form of cooperative contract or by using the overseas services, we can realize the contracting and subcontracting in the process of international marketing of cross-border e-commerce, so as to avoid the risks.

Second, Preventing the risks in the middle of transaction. In the process of international marketing of cross-border e-commerce, we should pay attention to the collection and preservation of electronic evidences, such as receiving notes, express lists, payment vouchers, etc., and do a good job of the storage of online chat records and some notarizations.

Last, Preventing the risks after the transaction. It is necessary to actively formulate relief measures. After domestic cross-border e-commerce enterprises are sued for intellectual property rights infringement, the enterprises should immediately stop the sale of alleged infringing goods. In special cases, it can also be solved in the form of network regulation and online arbitration. When complaint comes, we should actively deal with the problems, and we must not take a negative and evasive attitude. In the process of litigations, we can also choose the local qualified professional lawyers to represent the litigations, so as to ensure our own interests to the greatest extent.

#### **5. Conclusion**

To sum up, the author firstly summarizes the development situation of cross-border e-commerce in China, then analyzes the product quality risk, payment risk and intellectual property risk in the international marketing of cross-border e-commerce. Finally, according to the specific risks, the author puts forward three countermeasures to improve the legal system of cross-border e-commerce, strengthen cross-border payment and establish the risk prevention system of the whole process. In a word, under the background of the constant development of cross-border e-commerce, it is necessary to analyze the risk of international marketing of cross-border e-commerce, it is hoped that the research in this paper can provide some help for the development of cross-border e-commerce in China.

#### **References**

- [1] Wu Xing. The Development Status of Cross-border E-commerce in China and Its Impact on Foreign Trade[D]. University of International Business and Economics, 2016.
- [2] Yu Wenjing. Research on the Influence of Cross-border E-Commerce on China's International Trade and the Countermeasures[D]. Shandong Normal University, 2016.
- [3] E Libin. New Ways of International Trade ---- The Latest Research on Cross-border E-commerce[J]. Journal of Dongbei University of Finance and Economics, 2014(02):22-31.
- [4] Guo Xuejiao. Legal Risk Analysis on Cross-border E-commerce Service[J]. Sci-Tech & Development of Enterprise, 2014(16):7-9.

[5] Jiu Jingli. Discussion on the Integration of Traditional Manufacturing and Cross-border E-commerce[J]. Journal of Henan College of Finance & Taxation, 2015,29(06):28-30.