

Compliance Analysis and Countermeasures for Export Cross Border E-commerce Enterprises

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Abstract: Digital technology accelerates the development of cross-border e-commerce and other new forms of business, while non-compliant operations bring many risks to enterprises. This paper illustrates the concept of compliance of export cross-border e-commerce enterprises, the current situations of domestic and oversea compliance constructions, and the significance of accelerating cross-border e-commerce compliance development. By taking Zhuhai as an example, this paper analyzes the key risks that export cross-border e-commerce enterprises facing in government supervisions, platform compliance managements and other aspects, as well as the existing issues in cross-border e-commerce compliance constructions. Resolutions and suggestions to resolve the compliance risks of export cross-border e-commerce enterprises are also proposed in this paper.

1. Preface

Cross-border e-commerce, referred to as CBEC, is a transaction method to achieve rapid customs clearance and logistics distribution of goods through digital technology, and also an important reflection of a new round of technological revolution and consumption upgrading, and a new form and model of foreign trade with the fastest development speed, the greatest potential and the strongest driving effect. It has become a new driving force for foreign trade development and a new starting point for high-quality economic development. Cross-border e-commerce includes two models: B2B (business-to-business) and B2C (business-to-customers, mainly in the form of cross-border e-commerce retail business). According to customs statistics, China's cross-border e-commerce import and export turnover in 2022 is 2.11 trillion yuan, of which 1.55 trillion yuan is exported, accounting for 73.5%. The ratio of B2B and B2C models is 75.6:24.4.

In recent years, with the fierce competition of cross-border e-commerce, both domestic and foreign countries have strengthened the supervision of e-commerce trade transactions. Some e-commerce platforms, especially international platforms, have introduced new regulatory mechanisms. Many online stores have been involved in regulatory and infringement disputes, facing huge compliance risks. Due to the low threshold of B2C mode, there are many non-compliance situations and risks. Therefore, compliance operation has become an unavoidable topic for cross-border e-commerce enterprises.

2. The Concept, status and significance of export enterprises compliance in cross-border e-commerce

2.1 Concepts

The enterprises compliance of cross-border export e-commerce means that when enterprises carry out export transactions through cross-border e-commerce platforms, they must follow domestic and foreign laws and regulations, industry standards, platform rules, international trade rules, etc., to regulate business behaviors. [1] Compliance management is an important cornerstone for the development of export cross-border e-commerce enterprises and an important means for enterprises to go international and successfully operate.

In recent days, the export commodities of China's cross-border e-commerce enterprises are mostly sold to countries and regions with high market maturity, and these countries and regions

implement relatively strict market management, and implement strong supervision in various aspects such as product safety, tax compliance, intellectual property protection, and fair market competition.

2.2 Status of compliance construction at domestic and international

2.2.1 Foreign compliance status

(1) Compliance regulatory policies of various countries. Countries, especially developed countries, pay much attention to the compliance construction of cross-border e-commerce development. For example, the United States issued the world's first document "Global E-commerce Outline" in 1997, which clarified the general principles of internet business transactions. The US also requires all cross-border e-commerce businesses to make customs declarations. In 2000, Europe promulgated the "Electronic Signature Directive" and the "Electronic Commerce Directive", which established the initial regulatory framework for the protection of intellectual property rights in e-commerce, and also required all cross-border e-commerce enterprises to carry out data and privacy protection.

(2) Overseas tax and green compliance. Tax compliance has become a global concern. More and more countries or regions, such as the United States, the European Union, Russia, have tightened the tax policy of cross-border e-commerce, including raising tax rates, expanding the scope of taxation, and canceling the duty-free benefits of low-value packages. Meanwhile, developed countries have strengthened the supervision of green environmental protection compliance. The United States and the European Union have issued relevant compliance guidelines.

(3) Compliance with platform rules. In recent years, the mainstream cross-border e-commerce platforms globally have continued to tighten rules. Amazon platform, the originator of e-commerce, stipulates that repeated registration information will be judged as related by the Amazon system, such as accounts will be blocked when one IP address logs in two or more accounts. This requires the seller to have the account with only one IP address, one paypal, and one email. [2] In 2021, Amazon's "store closure wave" resulted in the closure of more than 50,000 stores and the freezing of hundreds of billions of assets, affecting mostly Chinese sellers.

2.2.2 Domestic compliance status

In January 2005, China issued the first e-commerce document "Several Opinions of The General Office of the State Council on Accelerating the development of e-commerce", which made clear provisions on credit, certification, standards, payment, logistics, enterprise information, technology and service system, international exchange and cooperation. With the rapid development of Internet technology, the process of cross-border e-commerce compliance in China has been accelerated, and a cross-border e-commerce standard system has been initially formed with 11 national standards at present. [3] Compliance construction in the fields of process supervision, product certification, and market order has also achieved positive results. [1] Some places strengthen the supervision of market entities, such as Guangzhou issued the first compliance guideline in the domestic cross-border e-commerce comprehensive pilot zone - Guangzhou Cross-border E-commerce Industry Compliance Guidelines (Trial), which put forward requirements for the construction of cross-border e-commerce business compliance management system.

2.3 Significance of accelerating the compliance construction of cross-border export e-commerce enterprises

1) To build a good corporate image and help enterprises to "go global" better. With the development of cloud computing, big data, and other technologies, the operation and management of enterprises are becoming more transparent, and the cost of violations is becoming higher. A good compliance management will enhance customers' trust in the enterprise, winning more customers, reducing disputes and effectively protecting the legitimate rights and interests of the enterprise.

2) To strengthen domestic cross-border e-commerce platforms. Compared with the mature compliance management of global mainstream cross-border e-commerce platforms, our domestic

platforms still need a lot of improvements. Good compliance management of the platforms and enterprises is conducive to promote the long-term and stable development and their later expansion to foreign countries.

3) To expand export trades and support local economic development. Local governments which strengthen the compliance management of cross-border export e-commerce, on the one hand can improve international trade rules and international standards, creating a good trade and investment environment. On the other hand, it helps local enterprises to enhance their competitiveness so that they can enter international market better.

3. Compliance risks and problems of cross-border export e-commerce enterprises in Zhuhai

3.1 Compliance risks of Zhuhai cross-border export e-commerce enterprises

The first thing for cross-border e-commerce export enterprises to face is the risk of government compliance supervision. In export business, overseas enterprises are only retailers and distributors, and the risks foreign government supervising, such as product quality supervision, advertising risks, anti-unfair competition management, etc., naturally extend to domestic enterprises. Enterprises have to face the risk of goods being detained by the customs, the risk of suspected smuggling such as underquoting prices, ‘brushing orders’, ‘pushing orders’, and ‘cutting orders’. Additional problems include the tax risk caused by ‘brushing orders’ falsely increasing sales, live-streaming tax leakage with goods, tax evasion, and problematic invoicing.

In addition, companies also need to face compliance risks from e-commerce platforms. According to the survey of Zhuhai International Trade Promotion Agency in 2022 (hereinafter referred to as Zhuhai Survey, survey data are all from this agency), the majority of Zhuhai enterprises choose Amazon platform, accounting for 45%. A small number of enterprises settled in eBay, AliExpress, etc., accounting for 4.5% each. Other enterprises did not give feedback on business platform information. The most prominent compliance risks of enterprises are concentrated in intellectual property rights, manipulation evaluation and performance indicators, followed by issues such as following sell, being warned, and complained. This paper demonstrates the issues from the following aspects:

3.1.1 Compliance risks of intellectual property

Intellectual property disputes have become an important area of international economic and trade disputes. At present, a large number of enterprises in China have been sued for intellectual property infringement. The Zhuhai survey found that 44% of enterprises did not consider intellectual property rights in the feasibility study of products. More than half of the stores do not use their own enterprise trademarks, but use other trademarks, non-registered trademarks or having no trademarks. 36% of the products sold by enterprises did not use store patent.

3.1.2 Risks of manipulating product evaluation

Evaluation manipulation refers to the behavior of sellers or affiliated personnel of the seller's enterprise, family members, third parties employed by the seller or competitive stores, etc. in violation of the platform policies by brushing sales, leaving an untrue positive or negative evaluation after purchase to the store or to the competitor's store. Or the seller actively asks for a positive evaluation from the buyer. 53% of the surveyed enterprises are involved in manipulation evaluation, and the problems are mainly concentrated in the three aspects: insufficient understanding of platform identification keywords, asking for good evaluation, and fake transactions. Platform identification of evaluation keywords means that the e-commerce platform prohibits sellers from asking buyers for evaluation in personal letter on the website, and captures specific evaluation language and word information. Once it is found that the store has asked buyers for evaluation for a long time to manipulate the evaluation content, the store behavior will be judged as evaluation manipulation.

3.1.3 Compliance risks of platform performance indicators

Platform performance indicators refer to the standards used by e-commerce platforms to evaluate the impact of a store's order management, logistics management, and product problems on buyers, including order defect rate, cancellation rate, tracking rate, and order delay rate. Once the platform finds out that the performance indicator of a store is at a long-term serious abnormal level, it may warn or shut down the store. According to Zhuhai survey, enterprises have a good command of orders' delivery time. The high-risk problems mainly focus on the order defect rate and order tracking rate.

3.1.4 Risks of follow- sell

In order to form healthy competition between sellers whose products of the same quality, attract more buyers to the platform, and reduce repeated display on the same page, the e-commerce platform allows sellers to share the same listing to sell products of the same specifications. Follow-sell is designed mainly for e-commerce platform hot products. The specifications, appearance, qualities, standards or brands of the products sold by the seller and the products shown in listing are completely consistent. Among the enterprises that have participated in the follow-sell, 71% of them said that their rights and interests have been damaged, and the main risks caused by the follow-sell mechanism are prominently reflected in three aspects: trademark, design, and low profit margin, among which the trademark problem is particularly prominent.

3.1.5 Risks of warnings and complaints

25% of enterprises have faced warnings and complaints. Being warned by the platform may be the problem of infringing on the rights and interests of other stores, brands, buyers, A-Z claims or result from violations of platform policies.

3.2 Problems in compliance construction of cross-border export e-commerce in Zhuhai

The compliance construction of cross-border export e-commerce is not only the responsibility of enterprises (shops), but also the joint responsibility of governments, platforms and enterprises at all levels. The emergence of many non-compliance problems is related to the lack of government supervision and ineffective performance of the platform to some extent.

3.2.1 Local governments are not sufficiently aware of the importance to compliance risks and maintain lax supervision

(1) The local government's understanding of compliance is not in place. Some government departments believe that the country already implemented laws and regulations for e-commerce, so compliance is the own business of enterprises that local governments do not need to pay too much attention on it. Export cross-border e-commerce involves domestic and abroad business. It is difficult to implement supervision when e-commerce platforms and customers rarely stay locally.

(2) Local government does not strictly supervise the platform. In the Zhuhai survey, e-commerce companies generally reflected that overseas e-commerce platforms have unclear e-commerce policies and policies normally in favor of buyers. 42.2% of enterprises consider that the complaint rules of e-commerce platforms are unfair; 46.7% of enterprises believe that e-commerce platforms haven't take full responsibility in the complaint mechanism; 18.6% of enterprises state that the platform has unfair and discriminatory provisions; 10% of enterprises demonstrate that the platform lack of transparency and responsible practices. There are still many sellers report that their accounts have been frozen without notification. This requires the government to strengthen the supervision and guidance of overseas platforms doing business in our country.

3.2.2 Small and medium-sized enterprises do not have strong compliance awareness, and most of them lack management awareness to the source of supply chain

Many small and medium-sized enterprises belong to extensive operation, so they do not understand the destination countries' customs, tax, product safety standards, product testing reports or certification requirements and other compliance regulatory policies. At the same time, those

enterprises do not attach much importance to compliance management, and think that compliance management will increase the cost of enterprises. Thus maintain their awareness of product quality, brand and tax, trademark, and patent at low level.

3.2.3 Compliance management and intermediary services are not effectively carried out

(1) The self-discipline of cross-border e-commerce industry is not enough, and the service awareness of business associations is not strong. In the Zhuhai survey, most enterprises reported that there were malicious bidding and malicious competition among domestic peers in the cross-border e-commerce industry. Relevant cross-border e-commerce associations have not established industry norms thus lack of authorities. Those associations also lack effective guidance for enterprises to carry out cross-border e-commerce business.

(2) Lack of compliance intermediary services. Many cross-border export e-commerce sellers do not understand laws of the destination country, do not command relevant professional knowledge, lack of language skills, and lack of professionalism and proficiency, resulting in poor communication and failure to fully meet overseas regulatory needs. Sellers may face e-commerce platform goods off the shelves and even restrictions leading to stores shut down, penalties from regulators. It is an inevitable trend for sellers to entrust relevant works to professional third-party service providers. But at present, there are not many compliances intermediary services, especially high-level institutions.

3.2.4 Lack of compliance management personnel

Compliance positions belongs to interdisciplinary professionals with high requirements. Candidates must master at least one foreign language, understand international trade rules, including e-commerce platform rules, and understand the relevant laws and regulations of the main export destination countries. At present, the lack of talents in the e-commerce industry has become a common problem, and the shortage of compliance management talents is even more scarce, resulting in many enterprises operate and develop to a limited scale and hard to resolve to disputes. According to LinkedIn big data, China's compliance talent demand accounted for the global proportion from 2.2% in 2015 to 17.5% in 2022; China's demand ranks the third in the world, while its talent pool rank 13th; China has a higher demand for experienced compliance talents, with 72.4% of the demands are for the secondary and senior professionals. [4]

4. Countermeasures to resolve compliance risks of Zhuhai export cross-border e-commerce enterprises

4.1 The government should vigorously promote compliance construction

4.1.1 Strengthen the training for export cross-border e-commerce enterprises and improve their compliance awareness

It is suggested that government departments take the lead in carrying out training on overseas intellectual property rights, platform compliance and economic sanctions through online and offline lectures, public accounts and themed activities, so as to enhance the consciousness and initiatives of compliance management of enterprises. At the same time, enterprises should be organized to conduct compliance risk screening for international operations. Governments should also invite domestic compliance experts to analyze the risks exposed by enterprises in export control, economic sanctions, intellectual property protection, data protection and other fields, forming a Compliance Risk Assessment Report for International Operations of Enterprises to guide and assist enterprises in compliance management. Holding forums, summits and other major activities on compliance operation to create a good social atmosphere.

4.1.2 Relevant regulations and policies shall be introduced to maintain fair market order

Authorities can learn from the experience of Guangzhou and other places, strengthen local legislation, and clearly set out compliance requirements in the areas of commercial registration,

online transactions, advertising behavior, intellectual property protection, consumer rights and interests protection, and unfair competition; Government need to formulate a cross-border e-commerce compliance control list, and release strict rules on access qualification examination, information publicity, lighting operation to prohibit 'push orders', 'brush orders', 'secondary sales', false reporting of commodity descriptions, illegal use of leaked citizenship information, tampering or deleting data. Setting up law enforcement and crack down on counterfeiting, sales and infringement of intellectual property rights.

4.1.3 Support globalizing of domestic e-commerce platforms and urge platforms to perform duties

As the user agreement and account mechanism of overseas e-commerce platforms in favor of buyers to a large extent, it is suggested that the government implement the strategy to globalize domestic e-commerce platforms, improve the overseas business environment of China's e-commerce enterprises, avoid overseas platforms to become dominant, and superior to customers. At the same time, guide domestic e-commerce platforms to disperse business risks, and reduce business risks through new platforms and new mechanisms. It is necessary to guide e-commerce platform enterprises to establish a sound compliance system, regulate the release of commodity information, crack down on illegal store registration, and control bad behaviors such as 'brushing orders for building trust'. It is necessary to strengthen the supervision of cross-border e-commerce platforms, urge the responsibility of good performance of compliance management, and promote enterprise training, guidance and supervision.

4.1.4 Strengthen the training of cross-border e-commerce compliance personnel

The government should encourage universities and vocational colleges to strengthen the cultivation of e-commerce talents, especially talents specialize in compliance, focusing on the aspects of language, e-commerce operation, regulations and other areas to solve the problem. Encouraging cross-border e-commerce export platforms to increase training for new and old sellers; setting up operation courses and compliance courses, and helping merchants establish compliance concepts and conduct compliance operations. Enterprise compliance analyst, as a new profession, has been approved by the Ministry of Human Resources and Social Security to be included in the "Occupational Classification of the People's Republic of China" in 2021, and it is necessary to organize professional examinations and pre-exam training for compliance analyst to cultivate more talents who can adapt to the compliance management of cross-border e-commerce exports.

4.1.5 Assist enterprises to carry out overseas rights protection and other services

The Overseas intellectual property Protection Center is set up to play the role of firewall and risk early warning, providing enterprises with reliable advice and legal services, so that enterprises can understand the overseas intellectual property policies and the latest developments of e-commerce platforms, and therefore improve their dispute handling and risk prevention capabilities. At the same time, in view of the infringement of some enterprises overseas and the "wrongfully killed" condition by the big data of overseas platforms, it is suggested that the government organize industry associations and other institutions to establish a dialogue mechanism with overseas e-commerce platforms, assisting overseas platforms to conduct standardized management of domestic e-commerce enterprises, and hoping overseas platforms can balance the rights and interests of sellers and buyers and promote the overall sustainable development of the industry. Meanwhile, we should strengthen the construction of overseas warehouses to facilitate cross-border e-commerce returns and exchanges.

4.2 Strengthen industry self-discipline, and vigorously develop cross-border e-commerce compliance intermediary services

4.2.1 Trade associations play a key role in the industry

Trade associations play a key role in the field of cross-border e-commerce. They together with

other industry associations should organize the development of cross-border e-commerce industry technical standards and norms, and actively carry out international exchanges to make industry standards in line with international standards. Explore the establishment of an industry exit mechanism, strengthen the construction of industry compliance, and jointly create a positive, competitive environment that does not undergo price wars and infringe rights, but comply with regulations.

4.2.2 Encourage the establishment of compliance intermediary services

Support enterprises or institutions to carry out tax compliance services represented by VAT services, product compliance services represented by EPR, brand compliance services represented by trademarks, and various operational compliance services, assist sellers to connect with overseas tax authorities, process tax code applications and tax declarations generated after selling goods, and help sellers successfully obtain relevant qualifications and connect with overseas regulators. Prevent domestic sellers from being sued for infringement in the process of using brands, help enterprises regulate marketing and business behaviors, and prevent platform penalties for non-compliance.

4.3 Enterprises should strengthen compliance management

4.3.1 Establish compliance system of the enterprise

Enterprises should set up overseas intellectual property compliance systems, promote the understandings of IP regulations and latest trends of the target countries, conduct in-depth research on intellectual property cases, and timely search the same or similar intellectual property rights. It is necessary to pay attention to the product selection, strengthen the upstream and downstream compliance due diligence of products, and conduct a comprehensive understanding and investigation of the business activities of product manufacturers, suppliers, dealers, distributors, and other cooperation links. Documentation identified options and require entities in the supply chain to commit to all adverse consequences if infringement occurs.

4.3.2 Realize multi-platform decentralized management

Before entering different platforms, enterprises should have a comprehensive understanding of the rules on internal violations and account freezing, and adjust the entry strategy and investment of different platforms according to the characteristics of different stores, product structure and risk types of enterprises. From the Zhuhai survey, it can be seen that since 2022, cross-border e-commerce enterprises have begun to disperse to multi-platforms in their business mode. Therefore, enterprises should stick to the policy of multi-platform operation to disperse risks.

4.3.3 Achieve fine management and improve the comprehensive competitiveness of enterprises

Enterprises should improve product quality through technology means, control operating costs, achieve product efficiency and stabilize revenue by means of compliance, and avoid platform compliance risks.

4.3.4 Seek professional guidance after being sued

Many e-commerce companies did not seek professional regulation services after being sued, resulting in the loss of the best time to respond, or blindly choose the wrong response strategy to greater losses. Therefore, it is recommended that enterprises should pay great attention to the indictment after receiving it, and find professional lawyers for consultation on objections such as disagreement about delivery. If infringement is confirmed, enterprise should actively respond, seek a settlement in time, and summarize the sales amount and sales volume of the infringing products to minimize further losses as much as possible. At the same time, do not easily make the store suffer from default judgment, do not choose a long lawsuit in the case of infringement. Instead, choose effective ways such as settlement, licensing, and litigation as soon as possible based on the actual situation of infringement and whether the future product will continue to be sold.

5. Summary

If cross-border e-commerce enterprises want to pursue a long-term development, compliance operation is imperative. At present, the compliance risks of cross-border e-commerce enterprises in Zhuhai are concentrated in intellectual property rights, manipulation evaluation, performance indicators, following sell, being warned, complaints and other aspects. Inadequate government supervision, imperfect compliance services, and shortage of talents are all vital factors affecting enterprise compliance management. Therefore, the governments, industries, platforms and enterprises should form a joint force to increase the government's efforts to promote compliance construction, strengthen industry self-discipline, actively develop compliance services, and vigorously train compliance talents. Enterprises should establish a compliance system as soon as possible in order to further enhance the competitiveness overseas and promote the development of new cross-border e-commerce forms.

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