

Research on Cross-border E-commerce Economic Dispute Resolution Strategy

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Abstract: With the rise of new terms such as “Overseas Tao” and “overseas purchase”, various cross-border e-commerce platforms have gradually appeared in people's field of vision, such as “Tmall International”, “Amazon China” and “Jingdong Global Buy” and so on. In recent years, with the continuous popularization of cross-border e-commerce and the increasing number of disputes, it has increasingly shown the unique characteristics of cross-border e-commerce disputes. Traditional dispute resolution methods have not adapted to the development of cross-border e-commerce. Although the traditional dispute resolution mechanism is well known to most people, its procedures are relatively complete, and the enforcement of the ruling is strong. However, in the face of a long distance, a large number of network disputes, the traditional dispute resolution mechanism is due to its manpower, material resources, financial resources, etc. Factors have been difficult to choose. Therefore, the online dispute resolution mechanism (ODR) came into being.

1. Introduction

By the end of 2015, there were 688 million Internet users in China, an increase of 39.51 million compared with 2014. Among them, there are 413 million online shopping people, an increase of 51.83 million compared with 2014. 2 Among them, the cross-border e-commerce platform shows a good momentum of development. Statistics from the Ministry of Commerce show that the average transaction volume of large-scale cross-border e-commerce platforms in China has maintained a growth of around 40%. The cross-border e-commerce platform sells more than 5,000 overseas famous brand products from more than 25 countries and regions including the United States, Japan, Europe, and South Korea. In addition, 50 million discount items from more than 5,000 merchants in China were sold to 64 countries and regions. 3 People do not leave home, click on the mouse to log in to the cross-border e-commerce website, which can save time and energy on their own, and obtain relatively low prices. However, the links are complicated and the risks are even greater. If there are a series of problems such as quality and logistics, multinational consumers are faced with language barriers, legal differences, and jurisdictional issues, which makes their road to rights protection quite difficult. If the traditional dispute resolution model is adopted, whether it is through domestic lawsuits or international commercial arbitrations, it will bring enormous burdens to multinational consumers. The complexity of the proceedings, the length of time and the cost are all related to the small amount of cross-border online shopping. The features form a contrast.

2. Cross-border e-commerce main dispute types

With the increasingly busy work and the accelerated pace of life, online shopping has become an important choice for people's daily consumption. With the improvement of people's quality of life, the demand for well-known foreign brands has become stronger, and cross-border e-commerce platforms have emerged. And showing a strong momentum of development. However, huge benefits have driven many e-commerce platforms to publish false information, exaggerate the quality of publicity products, and even deliberately mislead consumers. Consumers simply choose images based on e-commerce platforms and product descriptions, and cannot know the true nature of the products. quality. The asymmetry of information makes a gap between the true quality of the product and the consumer's psychological expectation, and the content of the promotion causes the consumer to mistakenly believe that the product meets its purchase demand, thereby generating a

transaction. However, when consumers receive the goods, they find that the quality of the goods is not as described in the website, or even far from the pictures and descriptions, causing disputes. Such disputes are the most common category of cross-border e-commerce disputes, occurring in almost all types of commodity transactions.

There are two main types of disputes in this category: one is that the buyer has paid but has not received the goods; the other is that the seller has shipped the goods but the buyer refused to pay the goods. For disputes involving payments, it is usually not easy for buyers and sellers to make concessions. Therefore, once disputes occur, they will not be easy to resolve. In the first case, the buyer first pays the purchase price on the e-commerce platform, but since the seller is the post-obligor, it is likely that it will not be shipped to the buyer, or the seller may fulfill the delivery obligation for various reasons. However, the buyer did not receive the goods; in the second case, the seller has fulfilled the delivery obligation, but the buyer refused to accept the goods and refunded or the buyer lied that the goods were not received and did not confirm the receipt. Under such circumstances, payment disputes occur from time to time.

For e-commerce platforms that do not have a self-operated logistics transportation system, logistics transportation generally involves a cooperation agreement between the platform and the logistics enterprise. The transportation business of the single logistics transportation enterprise is not involved in the agreement with the unified logistics enterprise. Logistics companies cooperate to achieve transactions. Under this circumstance, even if both the buyer and the seller fulfill their respective obligations, it is still possible to cause disputes due to the negligence of the logistics and transportation enterprises. In this case, it is unfair if the risk is completely borne by the consumer, but it is not reasonable if the e-commerce platform assumes full responsibility. Therefore, such logistics and transportation disputes have arisen.

3. The dilemma of traditional dispute resolution methods

Consumer cross-border e-commerce disputes are essentially transnational business disputes. Traditionally, transnational litigation is the main way to resolve multinational commercial disputes. Consumers may choose a court in a country to initiate a lawsuit according to the rules of private international law, and the court shall make a judgment in accordance with the foreign-related civil procedure. If the consumer wins the case, the owner can defend his or her own interests by voluntarily executing the judgment or applying for a court of a country to recognize and enforce the judgment. However, in view of the relevant characteristics of consumer cross-border e-commerce disputes, transnational litigation mechanisms are not suitable for the resolution of such disputes. First, the extraterritorial execution of the judgment is very difficult. Even if the consumer is able to resolve the dispute in the national court, the judgment often needs to go to the transnational execution of the country where the seller is located or the country where the seller's property is located. Second, transnational litigation is complex and can result in high legal costs. The average amount of cross-border electronic transactions by consumers is no more than US\$100. The cost of resolving disputes through transnational litigation will far exceed the dispute amount itself. Moreover, the determination of litigation jurisdiction is very difficult. A cross-border electronic transaction often involves multi-national factors. For example, the location of the buyer and the seller and the location of the network server are located in different countries, which makes it difficult to determine the jurisdiction. There is no universal rule yet.

4. Cross-border e-commerce online dispute resolution model

At the time of cross-border e-commerce disputes and disputes, the traditional cross-border e-commerce platform also provides a certain dispute resolution mechanism. These mechanisms can further coordinate and resolve disputes through online communication technologies and protocols. At present, online negotiation and mediation are some of the more common non-litigation procedures, and play a more important role in solving small-scale e-commerce disputes.

In the first aspect, the online negotiation mode adopted by the "Internet+" cross-border

e-commerce platform. In the "Internet +" cross-border e-commerce transaction process, the two sides of the transaction coordinate the settlement of disputes through the online platform. It is a relatively common online dispute resolution model. Its more prominent feature is that the coordination process is more convenient and efficient. Online consultation can provide a better solution on the Internet for most e-commerce disputes with small transaction volume and small content. In this model, the final result of e-commerce disputes and disputes is a product of mutual coordination between buyers and sellers. This process does not require third-party intervention and reflects higher efficiency in solving problems and disputes. Therefore, this mode of negotiation is also called self-negotiation, and the platform and process of communication are established by both parties of e-commerce. However, this self-negotiating online coordination model does not play a broader role in practice. Once there is no normal negotiation channel between the two parties, it may not be possible to use this model to resolve disputes and disputes.

In the second aspect, online regulation and arbitration is also the mainstream solution mode of e-commerce in the process of transaction. Online mediation is the "internet+" cross-border e-commerce transaction between the parties, through the assistance of the frontline mediator, to deal with some corresponding disputes. Online mediation often relies on mediators to persuade the parties to accept their own proposals, so as to solve this dispute, the main advantages are relatively quick and flexible, and it is easier to solve practical problems. Therefore, for the "Internet +" cross-border e-commerce disputes, the parties can use a special mediation platform to resolve disputes, or you can choose the mediation platform on the e-commerce platform to resolve disputes. Online arbitration is similar. However, online arbitration is mainly an online arbitration mode established through an arbitration agreement. The main reason is that the independent third party conducts further research and analysis on the behavior of the e-commerce parties, thus the responsibility for the problem. The size, as well as the way to solve, make some suggestions.

5. Cross-border e-commerce dispute resolution mechanism

First, it is necessary to clarify the main body of the online mediation platform, especially the small amount of disputes in the online e-commerce transaction process, and to have a more direct dispute and dispute resolution platform to provide solutions for these disputes. The online communication mechanism attached to the "Internet +" cross-border e-commerce enterprise often fails to meet the actual needs of cross-border e-commerce disputes due to its limitations, including neutrality and transparency. Therefore, China's The government should unite the "Internet +" cross-border e-commerce enterprise to jointly build an "Internet +" cross-border e-commerce online mediation platform. In this way, the construction of the online mediation platform can be fully supported. Moreover, on this basis, it can also guarantee the independence and transparency of the online platform itself, and finally solve the actual disputes for consumers at home and abroad.

Second, the government and the "Internet +" cross-border e-commerce enterprises should jointly define the functions and mechanisms of the online mediation and arbitration platform. In the construction of cross-border e-commerce platform, in order to build a cross-border e-commerce arbitration and mediation platform, it is necessary to integrate the original online resolution mechanism and resources based on actual experience, and to resolve disputes by means of non-litigation. dispute. Moreover, the online mediation and arbitration platform should provide a one-stop dispute acceptance and resolution model. As an open platform, it also requires certain standards and rules to be defined in order to be seamless with the professional arbitration and mediation organizations. Docking. This includes the sharing of resources, as well as strict protection of the trader's privacy and trade secrets, and improve their level of trust.

Third, it is necessary to unify the procedures for the online arbitration and mediation platform to form a series of solutions. The current impact on the online mediation platform is mainly reflected in the fact that dispute resolution and dispute resolution agreements are not clear in effectiveness, and the applicable laws are also difficult, so that the relevant processing results cannot be implemented. Therefore, according to the online platform transaction and coordination process, the parties' willingness should be fully respected, and the two parties can independently choose

different coordination and resolution modes in the "Internet +" cross-border e-commerce. For the online coordination platform of e-commerce, it is necessary to encourage the parties to the e-commerce transaction to resolve the dispute by coordination or conditional non-mandatory means, which avoids some problems of whether the substantive law is applicable.

6. Conclusion

In the "Internet +" cross-border e-commerce transaction process, it is very necessary to effectively resolve various disputes and disputes. If we want to further play the role of the platform, we need to make full use of the current coordination and dispute resolution resources, with the online non-litigation process as the core, and encourage cross-border e-commerce traders to coordinate or adjust. Ways to provide protection for the legitimate rights and interests of businesses and consumers. The perfection and supplement of this mechanism requires a series of processes, and more relevant traders and policy makers need to learn from the practice to help "Internet +" cross-border e-commerce in an orderly environment. Sustainable and healthy development.

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