

Access to Justice in Transnational B2C E-Commerce : A Multidimensional Analysis of Consumer Protection Mechanisms

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Consumer Protection Mechanisms (渉外的B2C電子取引における正義へのアクセス：消費者保護メカニズムの多元的分析)

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論文内容の要旨

The volume of electronic commerce has grown rapidly along with the advancement in technology and has been widely adopted in the global market place, including direct sale between business operators and consumers (*B2C e-commerce*). However, the special characteristics of B2C e-commerce are that they are conducted in the virtual world where consumers and traders are often separated by a great distance and, in many instances the technological communication leads to some key issues such as ambiguous communication through electronic medium, personal data flow, distant enforcement and so on, which are difficult to regulate. These crucial issues appear to create great risks and uncertainties for consumers who engage in e-transactions. In light of the difficulties facing consumers in B2C e-commerce, innumerable legislations have been adapt to the peculiarities of electronic environment and the issues with regards to consumers' need of protection in the online market. Nevertheless, a majority of consumers continue to be skeptic when they shop online, thus obstructing the growth of the global e-market. This study therefore aims to identify institutional mechanisms that have the capacity to promote consumers' confidence in B2C e-commerce. There may be a wide range of methods that might be used to improve consumer confidence but this study will look at one particular method by arguing that enhancing *access to justice* is potentially an effective mean of improving consumer confidence which should promote greater awareness from the public. This study begins with a discussion on the meaning of "access to justice" and then constructs the *framework*, which includes procedural and substantive dimensions in which both socio-legal and economic considerations are identified as important, for conceptualizing access to justice in the context of consumer protection. The Framework will serve as the benchmark in the evaluation of various consumer protection mechanisms. Based on the results of the analysis conducted in this study, the institution of private ordering which do not rest on the creation of rules of law but rely on technological solution and remedies, appears to be the meaningful solution for enhancing access to justice in B2C e-commerce. It possesses many advantages and strong potential (e.g. convenience, time and cost savings, empowering consumers through communication, etc.) that seems to ensure better protection for consumers in the global e-market than the conventional regulatory approach. Even though the discussion indicates that a model of private ordering comes with the strong potential, the weaknesses in its system will need to be eliminated to effectively enhance access to justice and consumer confidence. This study put forward how the private ordering can be implemented successfully by using the third party, an *intermediary*, to limit the cautions of the private ordering and, at the same time, facilitating the functional system. In this regards, the state, with its material resources and incentives, seems to be the most suitable institution to act as the intermediary assuming the mediate role to assure that the private ordering could effectively protect consumers and increase their confidence in the online market. The proposal of this study aims to improve the institutional mechanisms of consumer protection in B2C e-commerce by providing a starting point for further discussions on implementable enhancements of the private ordering system in greater details.