

On the legal regulation of cut-throat competition within e-commerce platforms

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Abstract

China's e-commerce industry enters an era of competition within existing markets, the dividend from traffic is gradually diminishing, and the space for external market expansion is increasingly limited. In order to compete for limited user resources and market share, various e-commerce platforms are gradually abandoning the healthy competition model centered on technological innovation and differentiated services, and instead falling into a typical form of involutionary competition characterized by low-price dumping, false advertising, big data price discrimination, and "choose one or the other" exclusive transactions. Such competitive behaviors not only seriously disrupt the order of fair competition in the market and inhibit the overall innovation vitality of the industry, but also directly infringe upon the legitimate rights and interests of consumers, squeezing the living and development space of small and medium-sized operators and emerging platforms, ultimately leading to a vicious cycle of "bad money driving out good money." This paper uses the Anti-Unfair Competition Law and the Anti-Monopoly Law as core legal analysis tools. It first defines the connotation of involutionary competition within e-commerce platforms, systematically sorts out its behavioral patterns and multi-level social harms. Then, it deeply analyzes the practical dilemmas faced by the current legal system in regulating such competition, such as vague behavioral characterization, difficulties in determining market dominance, light legal liability settings, and insufficient coordination between law enforcement and judiciary. Finally, from multiple dimensions including legislative coordination refinement, innovation in law enforcement mechanisms, strengthening of judicial protection, and supplement of industry self-discipline, this paper proposes a path to build a systematic, professional, and dynamic governance system for e-commerce competition. The study believes that to address involutionary competition within e-commerce platforms, it is necessary to transcend the limitations of a single legal department or law enforcement means, promote the connection and coordination within the competition law system and with other market regulatory laws, strengthen data-driven regulatory capabilities, and fully leverage the rule-guiding role of judicial judgments, thereby effectively curbing irrational competition on platforms, maintaining a healthy and orderly digital market ecosystem, and promoting the e-commerce industry to achieve high-quality development driven

by innovation.

Keywords

Coe-commerce platform; cut-throat competition; Anti-Unfair Competition Law; Anti-Monopoly Law; legal regulation; platform governance

1. The behavior patterns and social harms of cutthroat competition within e-commerce platforms

1.1. The Connotation and Generative Logic of Involutionary Competition

The concept of "involution" was initially coined by American anthropologist Clifford Geertz to describe the phenomenon in agricultural societies where labor input continues to increase but output benefits stagnate under limited land resources. This concept was later introduced into the field of social science, broadly referring to a state where internal competition intensifies and development patterns tend to be repetitive and inefficient when external expansion is constrained. In the context of economic and business competition, "involutionary competition" specifically refers to a competitive form where market entities, faced with narrowing growth space, do not seek competitive advantages through technological innovation, service improvement, or model breakthroughs. Instead, they fall into a pattern of high-intensity, homogenized competition around existing resources, sacrificing long-term value.

In the e-commerce industry, the emergence of cutthroat competition has profound industrial backgrounds and market logics. As the growth of internet users peaks and the process of online consumption enters a plateau, e-commerce platforms generally face practical pressures such as escalating traffic costs, increasing difficulty in customer acquisition, and intensified challenges in user retention. Driven by the dual demands of capital return and market competition pressure, many platforms choose to abandon technological innovation and ecosystem cultivation that require long-term investment and carry higher risks, opting instead for quick-win but unsustainable strategies to compete for existing markets. Typical characteristics include: competition methods tend to be short-term and extreme, such as unbounded price wars, exaggerated or even fraudulent marketing, and the use of data and algorithm advantages to implement differential treatment or restrict competition; competition content is highly homogenized, with platforms severely overlapping in product categories, marketing activities, interface design, and even operational strategies, resulting in insufficient differentiated innovation.

The essence of this competition model is a zero-sum game akin to the "prisoner's dilemma": although most platforms recognize that innovation and collaboration are more conducive to the healthy development of the industry in the long run, driven

by individual rationality, they have to follow and adopt an involutionary strategy to avoid falling behind in short-term competition, ultimately leading the industry as a whole into a vicious cycle of intensified resource consumption, shrinking innovation vitality, and impaired consumer welfare. Therefore, involutionary competition is not only a form of alienation of corporate competition strategies, but also a manifestation of market mechanism failure under certain conditions, and its governance requires strong intervention and systematic guidance from laws and policies.

1.2. Typical behavioral manifestations and their illegality analysis

The cut-throat competition within e-commerce platforms exhibits a diversity in behavioral manifestations, encompassing both unfair competition practices that violate business ethics and monopolistic behaviors that may constitute exclusionary and restrictive practices. From the perspective of legal regulation, typical behaviors can be categorized as follows:

1.2.1. False advertising and commercial fraud

This is one of the most common means of unfair competition. Platforms or operators within the platform create false market reputation and transaction popularity by means such as brushing orders to boost credit, fabricating transaction data, forging user reviews, exaggerating or fabricating product efficacy, and misleading consumer decisions. For example, in the fields of beauty and health care products, some products create the illusion of being "internet-famous bestsellers" through carefully planned false content marketing. In addition, it also includes using false price tags such as "limited-time flash sales" and "historical lowest price" to induce consumption. Such behaviors directly violate the provisions of Article 8 of the Anti-Unfair Competition Law, which prohibits false or misleading commercial propaganda, and also infringe upon the right to know and the right to fair trade granted to consumers by the Consumer Rights Protection Law.

1.2.2. Data and algorithm abuse behavior

The platform utilizes the massive user data it collects and its algorithmic analysis capabilities to engage in behaviors that undermine fair competition and consumer interests. The most typical example is "big data price discrimination", where differentiated pricing is implemented for the same goods or services based on users' consumption habits, payment capabilities, device types, and other information, with older users often facing higher prices. In addition, it also includes using algorithms to "search demotion" or "traffic hijacking", unreasonably restricting the display of merchants who have not participated in specific promotional activities on the platform, or of competitors' product links, interfering with the normal order of transactions. Such behaviors may constitute "differential treatment" in the abuse of market dominance prohibited by the Anti-Monopoly Law, or may fall under the provision of "using technical means to hinder or disrupt the normal operation of

network products or services lawfully provided by other operators" stipulated in Article 12 of the Anti-Unfair Competition Law, which specifically regulates the Internet.

1.2.3. Exclusive behavior restricting competition

Commonly known as "either-or", this practice refers to platforms using their dominant position to explicitly or implicitly require their in-platform operators not to conduct business activities on other competitive platforms, or impose unreasonable restrictions on their operations on other platforms (such as removing products, participating in promotions, etc.). Violators will face restrictions on traffic within the platform, search demotion, exclusion from activities, and even direct penalties. This behavior aims to lock in high-quality merchant resources, consolidate their own market position, severely restrict the freedom of operators to operate on multiple platforms, deprive consumers of diverse choice rights, and raise the market entry barriers for potential competitors. In judicial and law enforcement practice, this behavior is mainly regulated based on the provisions of the Anti-Monopoly Law prohibiting the abuse of market dominance to "restrict transactions", or when the platform does not have a dominant position but its behavior has a clear effect of excluding or restricting competition, it is regulated based on the general provisions or the second principle of the Anti-Unfair Competition Law.

1.2.4. Sales below cost and predatory pricing

In order to squeeze out competitors and seize market share, platforms or large operators within platforms sell goods or provide services at prices continuously below cost in the short term. During e-commerce promotional festivals, the phenomenon of "breaking through the bottom price" in some categories of goods sometimes carries the tint of predatory pricing. Although low prices are beneficial to consumers in the short term, they may stifle small and medium-sized competitors in the long run, leading to increased market concentration and ultimately harming consumers' choice rights and long-term interests. This behavior is regulated by Article 11 of the Anti-Unfair Competition Law (prohibiting dumping) and the rules on predatory pricing under the Anti-Monopoly Law. However, its identification requires comprehensive consideration of multiple factors such as cost accounting, subjective intentions, and market effects, making it difficult to identify in practice.

1.2.5. New types of concealed monopoly agreements

With technological advancements, collaborative behaviors may be achieved or implemented between platforms or between platforms and merchants through algorithms. For instance, dynamic price following (algorithmic collusion) can be realized using algorithms, effectively achieving disguised price fixing or market segmentation in the absence of explicit written or oral agreements. Such behaviors are highly covert and difficult to evidence, posing severe challenges to traditional

monopoly agreement identification rules centered around agreement texts.

1.3. Analysis of multi-level social harm

The harm of cut-throat competition is systematic and multi-layered, with its negative impacts spreading from the field of market competition to consumer welfare, industrial innovation ecology, and even macroeconomic efficiency.

Firstly, the disruption to the order of market competition is the most direct and severe. Fairness, freedom, and openness are the cornerstones for the effective operation of the market competition mechanism. Involutionary competition contaminates market signals through false information, blocks market channels through exclusive agreements, and distorts the pricing mechanism through predatory pricing, turning competition from a contest of efficiency, innovation, and service into a competition of who dares to break legal and moral boundaries more. This not only leads to inefficient resource allocation but also severely inhibits the motivation for enterprises to gain competitive advantage through substantive innovation, creating a misguided trend where "innovation is inferior to marketing, and research and development is inferior to fake orders." In the long run, this will weaken the international competitiveness of the entire e-commerce industry.

Secondly, the infringement on consumers' legitimate rights and interests is both extensive and profound. Consumers are the ultimate bearers and victims of cut-throat competition. False advertising misleads consumer decision-making, big data price discrimination violates fair trading rights, and the decline in quality or reduction in service accompanying low-price dumping undermines consumers' rights to obtain guaranteed product or service quality. Practices such as "choose between two options" limit consumers' choice range. Under the precise manipulation of platform algorithms, consumers may also fall into "information silos" and "consumption traps", posing new threats to their autonomy of choice and personal information security.

Furthermore, the squeezing effect on small and medium-sized operators and the entrepreneurial ecosystem is significant. Large platforms, leveraging their advantages in capital, traffic, and data, implement strategies of intense competition, making it difficult for small and medium-sized businesses and emerging platforms to survive. They are either forced to accept harsh terms and unfair treatment from the platforms, with profit margins being severely compressed, or they are unable to compete in price wars and traffic wars, ultimately exiting the market. This not only hinders the diversification of market entities but also stifles the innovative vitality based on small and medium-sized enterprises, leading the e-commerce ecosystem towards a rigid pattern of monopoly by giants.

Finally, it poses a hidden danger to the sustainable development of the industry and the national digital economy development strategy. Involutionary competition shifts the industry's focus towards dividing existing resources rather than creating new

ones, which is not conducive to the e-commerce industry's upgrading towards higher value segments such as improving supply chain efficiency, expanding cross-border e-commerce, and empowering industrial digitalization. This runs counter to the national strategic direction of promoting the standardized, healthy, and sustainable development of the platform economy and strengthening, optimizing, and expanding the digital economy. An industry trapped in involution is difficult to undertake the mission of the times of leading consumption upgrading, promoting industrial integration, and contributing to common prosperity.

2. Regulation and limitations of the Anti-Unfair Competition Law on cut-throat competition in e-commerce

2.1. Type-specific regulation of traditional unfair competition behaviors

2.1.1. Type-specific regulation of traditional unfair competition behaviors

False Advertising (Article 8): It is explicitly prohibited for operators to make false or misleading commercial advertisements regarding the performance, function, quality, sales status, and user reviews of their products. In particular, the act of "organizing false transactions" to help others engage in brushing and faking reviews is also included in the scope of regulation. This provides a direct basis for cracking down on common practices such as brushing, faking good reviews, and fabricating sales volume in the e-commerce field.

Commercial defamation (Article 11): Operators are prohibited from fabricating or disseminating false or misleading information that harms the business reputation or product reputation of competitors. This provision can be used to regulate smear attacks conducted between platforms or among merchants within a platform through methods such as spreading rumors and making malicious complaints.

Clauses such as improper premium sales (Article 10) and low-price dumping (Article 11) also provide legal basis for regulating relevant specific behaviors.

2.1.2. Special provisions tailored to the uniqueness of the online environment

This clause adopts the legislative technique of "generalization + enumeration + catch-all" to respond to the particularities of online unfair competition. The three types of behaviors enumerated include: (1) forced redirection such as inserting links without consent; (2) misleading, deceiving, or coercing users to modify, close, or uninstall legitimate online products of others; and (3) malicious incompatibility. At the same time, a catch-all clause is set up to authorize regulatory authorities to identify "other behaviors that hinder or disrupt the normal operation of online products or services legitimately provided by other operators." This clause is of great significance for regulating technical unfair competition behaviors such as malicious technical interference, traffic hijacking, and malicious incompatibility that

occur among e-commerce platforms.

2.2. Major dilemmas and limitations in regulatory practice

Despite the basic regulatory framework provided by the Anti-Unfair Competition Law, it still exhibits numerous deficiencies when addressing the complex and ever-changing cut-throat competition within e-commerce platforms:

Firstly, there are ambiguities and lags in the regulation of new types of competitive behaviors. Legal provisions cannot exhaustively cover the ever-changing means of competition. For example, the illegality boundaries of behaviors such as using algorithms for personalized pricing (big data price discrimination), obtaining competitive information through data crawling, implementing covert discrimination through platform rules (such as search engine demotion), encouraging or acquiescing to "only refund without return" and other mechanisms that abuse consumer rights to harm competitors are not clear in the law. Although there are catch-all clauses in the Internet plus provisions, law enforcement and judicial authorities often adopt a cautious attitude when applying them, resulting in some new types of unfair competition behaviors being in a regulatory blind spot or facing difficulties in identification.

Secondly, the severity of administrative penalties does not match the illegal gains, resulting in insufficient deterrence. The fines imposed under the Anti-Unfair Competition Law for acts such as false advertising and commercial defamation are usually calculated based on the illegal proceeds or a specific percentage of business turnover, but there is an upper limit. For leading e-commerce platforms with annual transaction volumes often reaching hundreds of billions, the existing fines often seem insignificant compared to the huge profits they may obtain through unfair competition, making it difficult to form an effective deterrent. The principle of "proportional punishment" sometimes evolves into "excessive punishment and lenient fines" in practice, and the low cost of violating the law indirectly encourages speculative behavior on some platforms.

Thirdly, there are shortcomings in the civil relief mechanism, and the incentives for rights protection are insufficient. Victims (including competitors and consumers) face the dilemma of "difficulty in providing evidence, low compensation, and long cycle" when initiating civil litigation. On the one hand, relevant evidence such as platform backend data, algorithmic logic, and actual costs is often in the hands of the defendant platform, and the plaintiff's ability to obtain evidence is limited. On the other hand, calculating damages is difficult, as it is usually based on actual losses or the infringer's profits, but these are often difficult to accurately quantify in e-commerce competition disputes. Except for cases involving trade secret infringement, the law does not generally establish a punitive damages system, which leads to civil compensation amounts that may not cover the costs of rights protection. It is even more difficult to impose economic penalties on intentional and

repeated acts of unfair competition, weakening the enthusiasm of right holders to protect their rights through litigation.

Fourthly, the coordination between administrative law enforcement and industry supervision needs to be strengthened. Competitive behaviors of e-commerce platforms often involve multiple regulatory departments such as market supervision, cyberspace administration, and industry and information technology. The main force for enforcing the Anti-Unfair Competition Law is the market supervision and management department, but its regulatory capabilities and professional resources in areas such as platform algorithms, data security, and content ecology may be limited. There is still room for optimization in the cross-departmental coordinated law enforcement mechanism in terms of information sharing, clue transfer, and joint action, which affects the overall governance effectiveness of comprehensive and complex involutionary competition behaviors.

3. The path to improving legal regulation of cut-throat competition within e-commerce platforms: towards collaborative governance

3.1. Legislative coordination: filling gaps, refining rules, and enhancing systematicness

Firstly, promote the coordinated revision and interpretation of the Anti-Unfair Competition Law and the Anti-Monopoly Law. Clarify the focus and connection between the two laws in regulating platform competition behaviors: the former focuses more on stopping specific behaviors that violate business ethics and disrupt competition order; the latter focuses more on preventing structural and contractual behaviors that excessively concentrate market power and exclude or restrict competition. Through legislative interpretation or supporting guidelines, clarify the criteria for determining the illegal nature and legal application priority of behaviors such as "choose between two options" and big data price discrimination, to avoid legal application conflicts or leaving regulatory vacuums. Secondly, accelerate the introduction of supporting detailed rules and guidelines for competition rules in the digital economy field. Drawing on international experience, the State Council Anti-Monopoly Commission or the State Administration for Market Regulation should take the lead in formulating and updating normative documents such as the "Anti-Monopoly Guidelines for the Platform Economy" and the "Guidelines for Identifying Unfair Competition Behaviors on the Internet" in a timely manner. The focus should be on solving the following problems: (1) Market power assessment: It is clarified that when defining the relevant market and determining market dominance, in addition to market share, factors such as data control scope and processing capability, algorithm complexity, user switching costs (difficulty of switching), breadth and depth of the ecosystem, and mastery of key facilities should

be considered as important considerations. (2) Qualification of new behaviors: Provide more operational guidelines for identifying and recognizing new potential monopolistic or unfair competition behaviors such as algorithm collusion, self-preferential treatment, data denial access, and most-favored-nation clauses.(3) Analysis framework for behaviors such as "choosing between two options": Refine its constituent elements, clarify the considerations for "legitimate reasons" (such as protecting intellectual property rights, data security, or enhancing transaction efficiency), and enhance the predictability of legal application.

3.2. Law enforcement enhancement: professionalization, technology application, and collaboration

Firstly, establish a professional and composite law enforcement team. Within the national and provincial market supervision departments, set up specialized institutions or teams responsible for enforcing competition laws in the platform economy, recruiting composite talents with backgrounds in law, economics, computer science, and data science. Strengthen continuous training for law enforcement personnel on platform business models, data algorithms, and industry dynamics, enhancing their ability to handle complex technical cases.

Secondly, we should strengthen technology empowerment and innovate regulatory tools. We should vigorously develop "Regulatory Technology" (RegTech), utilize big data, artificial intelligence, and other technological means to develop network market monitoring systems, automatically scan, identify, and warn against abnormal price fluctuations on platforms, texts suspected of false propaganda, abnormal traffic, and transaction patterns, and realize the extension from "post-event investigation and punishment" to "in-process intervention and pre-event warning". We should explore the establishment of a platform data submission and compliance audit system, requiring major platforms to regularly submit key anonymized datasets involving competition for analysis and evaluation by regulatory authorities. Thirdly, deepen cross-departmental and cross-regional law enforcement collaboration. Establish and improve mechanisms for information sharing, clue transfer, joint research and judgment, and coordinated law enforcement among departments such as market supervision, cyberspace and information technology, industry and information technology, development and reform, and commerce, forming a joint force for full-chain and multi-dimensional supervision of platform competition behavior. For national platforms, strengthen unified command and coordination at the national level, eliminate local protectionism, promote cross-regional law enforcement collaboration, and ensure uniform implementation of laws.

Fourth, we should implement "compliance incentives" and "categorized supervision". Platforms are encouraged to establish and improve their internal competition compliance systems. For platforms that proactively report and rectify

issues, and have good compliance records, they may be given lighter, mitigated, or exempted penalties in accordance with the law during investigation and handling. Based on factors such as platform size, market share, business type, and compliance risks, differentiated and targeted regulatory measures should be implemented, focusing limited law enforcement resources on high-risk, high-impact leading platforms and typical behaviors.

3.3. Judicial guarantee: unifying the standards of judgment and strengthening rights relief

Firstly, we should fully leverage the role of judicial judgments in guiding the rules. We should encourage internet courts or intellectual property courts in Beijing, Hangzhou, Guangzhou, and other cities to concentrate on hearing cases involving platform competition disputes, accumulating judicial wisdom through specialized trials. The Supreme People's Court should timely issue judicial interpretations or guiding cases on the trial of civil disputes involving unfair competition and monopoly on e-commerce platforms, clarifying the rules of judgment and unifying the standards of legal application for difficult issues such as compensation calculation for big data price discrimination, burden of proof allocation for algorithm collusion, and the boundaries of platform responsibility.

Secondly, optimize litigation procedures and address the challenge of burden of proof. In relevant litigation, make reasonable use of the rules for shifting or reversing the burden of proof. For example, in cases involving platform algorithm discrimination or big data price discrimination, the platform can be required to bear the burden of proof for the fairness and non-discrimination of its pricing or ranking algorithms. Explore the establishment of an evidence disclosure system applicable to competition disputes, and under the premise of protecting trade secrets, ensure the right of parties to obtain key evidence.

Thirdly, we should improve the public interest litigation system and expand relief channels. We should further clarify and broaden the authority and scope of civil public interest litigation initiated by consumer associations and procuratorial organs at or above the provincial level against e-commerce platforms that generally infringe upon consumer rights or disrupt market competition order. Public interest litigation can focus on requiring platforms to stop infringing, eliminate impacts, compensate for losses (establish a consumer compensation fund), etc., making up for the defects of scattered individual litigation power and insufficient motivation to safeguard rights, and forming socialized supervision and judicial deterrence against illegal platforms.

3.4. Industry co-governance: enhancing platform autonomy and strengthening social supervision

Firstly, we should press the main responsibility of platforms and promote benign

self-governance. We should urge major e-commerce platforms to improve their internal governance rules and establish a fair, transparent, and non-discriminatory platform rule system, especially in terms of traffic allocation, search ranking, promotion participation, dispute resolution, and other aspects. We should encourage platforms to establish independent compliance committees or external advisory groups to regularly assess competition compliance risks. Industry organizations should take the lead in formulating competition compliance guidelines and best practices in the e-commerce field, and promote the signing and implementation of industry self-discipline conventions.

Secondly, strengthen social supervision and public participation. Improve the reward mechanism for reporting illegal competition behaviors on platforms and protect the legitimate rights and interests of reporters. Support independent third-party research institutions and media to conduct investigations and assessments of platform competition behaviors, giving full play to the role of public opinion supervision. Through consumer education, enhance the public's ability to identify behaviors such as big data price discrimination and false advertising, as well as their awareness of rights protection.

4. Conclusion

The cut-throat competition within e-commerce platforms is a prominent issue that has emerged as the digital economy transitions from rapid growth to high-quality development. It is a result of the combined effects of partial market mechanism failures, unregulated capital expansion, and lagging legal supervision. This competition substitutes irrational internal consumption for creative external expansion and sacrifices long-term ecological health for short-term profit pursuit. It not only undermines consumer welfare, squeezes the space for small and medium-sized operators, and inhibits industry innovation, but also poses a potential threat to the strategic goal of building a unified national market and promoting common prosperity.

This study indicates that the current legal regulatory framework, centered around the Anti-Unfair Competition Law and the Anti-Monopoly Law, provides basic tools for governing such competition. However, when facing the new characteristics of the platform economy, such as multilateralism, dynamism, and data-driven nature, it reveals multiple limitations, including vague behavioral characterization, difficulties in identifying market power, insufficient legal liability deterrence, and shortcomings in regulatory capabilities. Relying solely on the amendment of legal provisions or the strengthening of law enforcement efforts is difficult to fundamentally reverse the trend of involution.

Therefore, to address the cut-throat competition within e-commerce platforms, it is imperative to embrace a systematic approach and shift towards a new paradigm of "collaborative governance". This paradigm demands the following: At the legislative

level, it is essential to enhance coordination within the competition law system and with other laws such as the E-commerce Law, Consumer Rights Protection Law, Personal Information Protection Law, and Data Security Law. This involves refining competition rules for the digital economy and filling regulatory gaps. At the enforcement level, regulatory agencies should be professionalized and technologized, and a cross-departmental and cross-regional coordination mechanism should be established to implement targeted and precise supervision as well as compliance incentives. At the judicial level, professional judgments and guiding cases should be used to unify judicial standards, optimize litigation mechanisms, and actively leverage public interest litigation. At the governance subject level, platform enterprises should be held accountable, industry self-discipline should be promoted, and social supervision and public participation should be encouraged. Only through the concerted efforts of multiple stakeholders, including legislation, enforcement, judiciary, platforms, industries, and society, can a modern governance system be established that features clear rules, effective enforcement, efficient relief, and moderate self-discipline. This will effectively curb the spread of cut-throat competition on e-commerce platforms, redirecting the platform's vitality towards technological innovation, efficiency improvement, service optimization, and ecological prosperity. Ultimately, this will maintain a fair competitive market order, safeguard the legitimate rights and interests of consumers, stimulate the innovative vitality of various market entities, and promote healthier, more sustainable, and higher-quality development of China's platform economy and even the entire digital economy.

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