

Analysis on Unfair Competition: Based on China's E-commerce Industry

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Abstract. The fierce competition in China's e-commerce industry led to many new forms of unfair competition. This study analyzes the specific unfair competition behaviors existing in the case of Genshin Impact and Pinduoduo, as well as the impacts of unfair competition on multiple parties. This study first defines unfair competition from both legal and economic perspectives. The Anti-Unfair Competition Law of the People's Republic of China is taken as the reference for legal definition. The theory of efficiency competition is used as the benchmark for judging the legitimacy of competition. Secondly, this study conducted a detailed case analysis on the case where Pinduoduo released false game themed task for Genshin Impact in order to attract traffic. Thirdly, this study analyzes the unfair competition actions of Pinduoduo from economic perspective and examined its impact on consumers, the two involved companies and the entire market. The final analysis concludes that the behaviors of Pandoro constituted unfair competition. It used the reputation and huge popularity of Genshin Impact to attract traffic and released false advertisement to deceive and mislead consumers. These actions not only caused increased costs and damage to the credibility of Genshin Impact, but also harmed the rights of consumers. At the same time, the unfair competition behaviors make more market resources tilt towards Pinduoduo, disrupting the market order. Future research is recommended to examine the effectiveness and rationality of platform regulation as well as exploring the development of technical solutions to prevent such unfair competition behaviors.

Keywords: Unfair competition, e-commerce, platform regulation.

1. Introduction

In the era of rapid development of digital economy, e-commerce has become the core force reshaping traditional business models and consumer behavior. Statistics indicates that the aggregate economic output of the United States, China, Germany, Japan, and South Korea reached \$33 trillion, accounting for 60 % of global GDP—an increase of 8 percentage points from 2019. The digital economy in China reveals remarkable growth potential, with the added value of core digital economy industries estimated to surpass 12 trillion yuan, representing approximately 10 % of the country's GDP. This proportion significantly surpasses that of other major economies, underscoring its transformative potential [1]. Moreover, China has firmly held the position of the world's largest online retail market, highlighting the huge scale and formidable strength of its e-commerce market. The user base of live-streaming e-commerce has reached nearly 600 million, with its penetration rate soaring from 4.9% in 2019 to 37.8% in 2024. The user base of live-streaming e-commerce has reached nearly 600 million, with its penetration rate soaring from 4.9% in 2019 to 37.8% in 2024 [2]. These data demonstrate the vastness of Chinese e-commerce industry.

However, with the rapid expansion of e-commerce industry, various competitive strategies have emerged in endlessly, among which the risk of unfair competition has become increasingly prominent. Under the fierce competition for traffic and the pressure of growing users, e-commerce platforms often attempt to attract attention through various marketing methods. However, some of these practices may pose a threat to the competitive order, consumer interests and industry fairness.

Recently, the case between Pinduoduo and the well-known game Genshin Impact has drawn widespread attention. Pinduoduo once launched a marketing campaign called "Genshin Impact Theme Task - Grab 10,000 Genshin Stones for 1 Yuan", using the Genshin Impact brand to attract users. However, it did not actually establish an official cooperative relationship with miHoYo. This action is suspected of false advertising and infringement of brand rights. This incident not only

reflects the legal risks that e-commerce platforms face when using well-known game IP for traffic diversion, but also exposes the deficiencies of current legal supervision in responding to new digital marketing models.

This article will take this incident as the research object and combine with the relevant provisions of the Anti-Unfair Competition Law of the People's Republic of China, explore the behavior, legal definitions and influences on different parties in the e-commerce field, aiming to give practical suggestions for improving the relevant legal system and supervision mechanism, as well as guide the healthy competition in the market in order to promote healthy development of the whole economy.

2. The Basic Concepts and Definitions of Unfair Competition

2.1. Basic Concepts of Unfair Competition

Unfair competition is a term which may be applied generally to all dishonest or fraudulent rivalry in trade and commerce [3]. Unfair competition disrupts the normal market competition order in the production and business activities, thereby causing damage to the interests of consumers and other business operators. However, how to define unfair competition behavior is a difficult problem. Naver is the largest search engine in South Korea. It was once punished because the Korea Fair Trade Commission claimed that Naver distorted market competition by adjusting its algorithm. However, the Supreme Court of South Korea stated that adjusting or changing the search algorithm itself is part of normal business operations. From this, it is complex to distinguish and define normal business practices from unfair competition behaviors [4].

2.2. Definitions of Unfair Competition

2.2.1. The legal definition of unfair competition

To encourage and protect competition while safeguarding the lawful rights and interests of businesses and consumers, China has promulgated laws to restrict unfair competition practices. In the Anti-Unfair Competition Law of the People's Republic of China, "act of unfair competition" means that in its production or distribution activities, a business disrupts the order of market competition and causes damage to the lawful rights and interests of the other businesses or consumers, in violation of this Law.

The Anti-Unfair Competition Law of the People's Republic of China stipulates that businesses should adhere to the free will, equality, fairness, and good faith principles, and abide by laws and business ethics in their production and distribution activities. This law also clearly defines the scope of unfair competition behaviors. For example, any act of confusion, bribery, disclosure of business secrets, dissemination of rumors that cause damage to the interests of other businesses, and selling at a price lower than cost are all regarded as means of unfair competition, which will be dealt with according to the law.

2.2.2. The economic definition of unfair competition

The positioning point for assessing the legitimacy of competition is rooted in the theory of efficiency competition. Specifically, it pertains to whether a business engages in competition based on the high quality and favorable price of its own goods or services [5].

From the perspective of economics, normal competition should be that business gains consumers' favor and a higher market share with high-quality and reasonably low-priced products by reducing costs and enhancing productivity, engaging in healthy competition with other businesses. However, unfair competition disrupts the market mechanism and market order, affecting the effective allocation of resources in the market. Unfair competitors do not want to spend costs for normal production to obtain profits, they use improper means to gain market share in order to maximize their own interests, and more resources will transfer to them. This disrupts the rational allocation of market resources and also brings harm to society and other businesses.

For instance, pricing by businesses below cost is an act of unfair competition. Large enterprises attract a large number of consumers through low-price dumping, making market competition no longer focus on quality but merely on low prices. This will greatly reduce the survival space for small and medium-sized enterprises and even cause them to go bankrupt. Enterprises involved in unfair competition will also fall into huge losses, affecting the sustainable development of the entire industry and may even lead to the industry's contraction. For consumers, although they seem to enjoy benefits from the current low prices, once large enterprises monopolize the industry in the future, consumers will have to bear the consequences. Not only will consumer choices be reduced, but also they will be forced to accept products of lower quality and higher prices.

3. Typical Case of Unfair Competition in E-commerce Platforms

The common unfair competition behaviors on e-commerce platforms are diverse, including misleading, infringement, brushing, spread of disinformation and so on. The case of Pinduoduo and Genshin Impact is a typical example of misleading and spread of disinformation in unfair competition behaviors.

3.1. The Basic Introduction of the Tortfeasor and the Aggrieved Party

The tortfeasor of this case is Pinduoduo, an e-commerce platform. Pinduoduo attracts users by offering large consumption subsidies and exclusive low prices for new users, as well as inviting new users to help withdraw their bonuses.

The aggrieved party of this case is Genshin Impact, which is a game under miHoYo. Genshin Impact is a phenomenon-level game. New data from Sensor Tower shows that Genshin Impact surpassed \$2.2 billion in player spending across iOS in mainland China in October 2024 and Niko Partners estimates that the game has grossed over \$5 billion in total when accounting for third party app stores [6].

3.2. Case Description

Previously, Pinduoduo released a game-themed task for Genshin Impact without authorization from miHoYo, recruiting short video bloggers for commercial promotion. They were required to attach a link to "Get 10,000 primogems (in-game virtual currency) for 1 yuan" in their videos or comment sections, guiding users to click on the link to download the Pinduoduo application. However, in reality, the claim of "Get 10,000 primogems for 1 yuan" is false advertising. Pinduoduo cannot offer users primogems. Instead, it uses entertainment subsidies as a substitute to induce users. This will lead players to mistakenly believe that there is a specific cooperative relationship between Genshin Impact and Pinduoduo, causing damage to Genshin Impact's reputation. For instance, users may reckon that Genshin Impact is involved in fraudulent activities, which leads to a decline in their trust in Genshin Impact.

After miHoYo filed a lawsuit, the first-instance court ruled that Pinduoduo's actions constituted false advertising and unfair competition, and ordered it to compensate 350,000 yuan. Both the plaintiff and the defendant appealed. Ultimately, the Higher People's Court of Zhejiang Province made a final second-instance judgment. On the basis of upholding the first-instance determination of false advertising, it was determined that Pinduoduo constituted unfair competition by counterfeiting and confusion. The court ordered it to cease infringement, publish a statement to eliminate the negative impact, and compensate for economic losses and reasonable expenses for rights protection totaling 1 million yuan [7].

4. Typical Case Analysis

4.1. Analysis of Behavior from the Perspective of Economic Theory

4.1.1. Free-rider problem and negative externality

Due to the high costs of compliance, enterprises may “rationally” choose to engage in infringement [8]. The well-known game IP Genshin Impact has significant positive network externalities. The more users it has, the higher its value. The behaviour of Pinduoduo is actually a form of free-riding. Pinduoduo has not invested any cost in creating or cultivating the value of the Genshin Impact. Instead, by establishing a false association with it, it has freely "boarded" the user base, brand reputation and player emotions that miHoYo has built through huge research and development as well as marketing investments. This kind of behavior has generated negative externalities: Pinduoduo has brought itself a larger user base and expanded its own revenue, but it has diluted the credibility of the Genshin Impact brand, disrupted miHoYo's normal user management and marketing activities, and constituted the erosion and theft of miHoYo's goodwill, an intangible asset.

4.1.2. Information asymmetry

There is information failure happened in the e-commerce industry. Asymmetric information occurs when the parties engaged in a market transaction possess unequal levels of information [9]. In this case, as the party with the information advantage, Pinduoduo deliberately created and exploited information asymmetry. It used official art materials and published theme tasks, which conveys a false signal of "cooperation with miHoYo". As the party at a disadvantage in terms of information, consumers find it difficult to distinguish the authenticity of signals. This enabled Pinduoduo use extremely low cost to bring more traffic to itself.

4.2. The Outcomes of the Behaviour of Pinduoduo

4.2.1. The influences on Pinduoduo

Pinduoduo's unfair competition practices have brought high profits to itself with low costs, improving many indicators such as the number of daily active users and so on. However, the behavior also gives rise to moral hazard - if such low-cost and high-return "shortcuts" are not effectively punished, platforms will lack the motivation to innovate new business model and user experience optimization, and become dependent on infringing traffic diversion paths. The platform is not only the technical and facility services provided by platform enterprises for merchants to participate in online market competition, but also the space, place and market itself for merchants to conduct online business and online market competition. More importantly, the platform controls the key infrastructure. This means that platform enterprises simultaneously play the dual roles of service providers and market managers in the competition of the online transaction market [10]. Although the case was not publicly tried, the incident, through official announcements and media exposure, sent a negative signal to the market that Pinduoduo had "unethical business practices". Although it gained traffic in the short term, it seriously damaged its credibility in the minds of advertisers, high-quality brand owners and some high-value users. Advertisers will be concerned that their brands may be associated with false marketing activities, and brand owners will be wary that their intellectual property rights may not be respected. This will cause the long-pursued brand upgrade strategy of the Pinduoduo platform to be hindered and affect its sustainable development in the future.

4.2.2. The influences on miHoYo

Pinduoduo's actions have caused significant negative externalities to miHoYo. Mihoyo's management costs have increased. It needs to invest additional resources to appeal against Pinduoduo and issue a clarification statement, resulting in social costs that it should not have borne.

4.2.3. The influences on the whole industry

If the behaviour of Pinduoduo is not published, a vicious circle will be formed. Other e-commerce platforms (such as Taobao and JD.com) will be forced to get involved in similar "infringing traffic

diversion" competition in order to maintain their market share. The competitive focus of the entire industry will shift from healthy competition in service quality, technological innovation and user experience to seizing market share through some improper means. This will lead to the lagging development of the entire industry and even its decline.

4.2.4. The influences on consumers

Consumers have invested time, energy and even social resources, but they fail to obtain the utility promised in Pinduoduo's activities. This is essentially an exploitation of consumers' cognitive resources - the platform takes advantage of consumers' rational ignorance, that is, when people process information, they only focus on key information to make decisions.

Deceptive practices like those of Pinduoduo will reduce consumers' trust in e-commerce platforms. When consumers are repeatedly deceived, they will become more cautious and suspicious. This not only increases the marketing costs of all honest merchants, but also makes it difficult for those genuine and high-quality promotional activities to reach consumers, ultimately leading to a net loss of social welfare.

4.2.5. Methods to deal with unfair competition

Therefore, government should still continuously revise and improve relevant laws and regulations. Market supervision departments should strengthen daily supervision over the market and severely punish illegal acts. The increase in penalties such as fines and public criticism can have a deterrent effect and therefore reduce illegal acts. E-commerce platforms should be governed by multiple parties, with consumers, the government and the platforms all involved. Government should actively encourage the reporting of unfair competition behaviors to promote the healthy development of the industry. Moreover, government should cultivate the legal consciousness of healthy competition. For instance, publicity and education on anti-unfair competition can enhance the overall awareness of law-abiding in society.

The concept of Rational Ignorance proposes that when the cost of obtaining a specific information is higher than the potential benefits it may bring, an individual will rationally choose to remain ignorant and not obtain the information [11]. For consumers, the cost of obtaining the information in order to identify unfair competition behaviors such as false advertising is too high. For example, consumers have to compare different merchants and verify the authenticity of products, which is too time-consuming. Therefore, consumers should learn more common means of unfair competition and be more vigilant, they should not easily believe false advertisements and misleading information as well as buying goods in official ways.

There was a Xin Ba case before due to the fake bird's nests they sold in the live streaming room in the platform Kuaishou. In this case, the liabilities of platforms are seemed to be very much under-discussed. In the first administrative investigation, the official investigation report had little mention of whether or not Kuaishou as a live streaming e-commerce platform should take what responsibilities [12]. However, in fact, since platforms are important intermediaries for buyers and sellers, they should be regulated strictly to prevent unfair competition acts, and platforms have the ability to supervise the business activities of sellers.

Businesses should strictly abide by relevant laws and regulations, standardize their business operations. If encountering unfair competition, businesses should appeal to supervision departments or the court.

5. Conclusion

In conclusion, this study takes the "unfair competition case between Pinduoduo and Genshin Impact as the entry point. It reveals the unfair competition behavior in e-commerce industry through the background introduction and influences analysis of the case. In this case, Pinduoduo released a game-theme task for Genshin Impact to attract users without authorization and it use this to attract traffic on short-video platforms. The actions of Pinduoduo not only infringed the trademark rights of

miHoYo, but also constitutes damage to miHoYo's brand reputation, which illustrates the free-rider problem and so on in e-commerce industry.

Through the analysis of this case, it can be seen that in the process of pursuing traffic and growth in users, Chinese e-commerce enterprises have gradually formed a competitive logic concentrated on data and resource monopolies. Although it enhances the operational efficiency of the platform, it also triggers unfair competition behaviors such as infringement, misleading and so on, causing multiple damages to small and medium-sized merchants, brand owners and consumers. Although China has improved the relevant laws and market supervision, in the face of the complicated technical means and new competition models of e-commerce platforms, there are still problems in supervision such as ambiguous definition, lagging punishments and difficulty in cross-platform collaboration.

Therefore, based on this, this study gives following suggestions:

First of all, government should further improve the detailed rules for the application of legal norms and clarify the scope of unfair competition among e-commerce platforms. Second, the intensity of administrative supervision and judicial intervention should be increased to raise the cost of violations for e-commerce platforms. For instance, the number of fines should be raised and the platforms that offend the laws should be publicly criticized to create an effective deterrent. Third, it is necessary to promote the participation of industry associations and consumers in governance and build a market order of multi-party co-governance. Government should actively encourage consumers and platforms to report unfair competition behaviors to promote healthy market competition and sustainable development. Overall, the unfair competition behavior of e-commerce platforms is not only an isolated issue, but also a systemic problem that urgently needs to be addressed in the digital platforms. In the future, in the context of the continuous development of digital economy.

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