

Legal Analysis of “Clip Coupons” Event on Pinduoduo

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Abstract: Recently, some people use the “coupon loophole” to get large quantities of coupons without threshold and consumption. This resulted in the loss of tens of millions of RMB on the social shopping platform, which attracted the attention of public opinion. This paper aims at sorting out and analyzing the beginning and end of this event, sorting out the legal relationship and clarifying the legal responsibility. Moreover, to safeguard the legitimate rights and interests of all parties, ensure a fair and honest trading environment, and promote the stable and healthy development of the electronic shopping industry.

1. Event interview of “clip coupons” event on Pinduoduo

Here is a brief review of this event: Pinduoduo is the partner of “If You Are The One”, and has produced customized coupons only for guests to receive during the recording. This coupon, Pinduoduo has never in any way or at any time publicly promoted.

In the early morning of January 20, some people generated the QR code of the coupon through unknown technical means and spread and used it in some social groups. Through the QR code, each user can receive a no threshold coupon of 100 yuan and use it. At the same time, some people through the “virtual account pool” and other illegal technical methods to get the coupon in bulk, buy mobile phone bills, QQ COINS and other virtual goods. They transfer the value of their coupons in a fraction of the time to third party accounts with no control over their phone bill balances, game accounts, etc.

On the morning of the same day, this part of the staff began to spread the QR code of “coupon loophole” in the whole network after obtaining large amount of benefits, hoping to increase the difficulty of the investigation.

At 9 am on the same day, the system detected abnormal transactions of this type of coupon and issued an alert, and technicians fixed the vulnerability.

On the morning of the same day, Pinduoduo released a statement, saying that it had frozen the orders involved and reported to the Shanghai police. The next step is to cooperate with the police to investigate the legal responsibility of the cybercrime. Ordinary consumers involved in this incident will not be investigated.

2. Legal Analysis of “Clip Coupons” Event on Pinduoduo

“Clip Coupons” on Pinduoduo is obviously different from “China Eastern Airlines 0.4 Discount Ticket” “Tencent 0.2 Yuan Monthly Video VIP”. The other incidents were all caused by flaws in the company's official page or employee errors, which were normal business risks. However, the “Coupon Loophole” in the Pinduoduo does not exist in the official website or the client side, but through the gray channel. This is far beyond the usual technical risks, and the enterprise itself cannot foresee them, so it is unreasonable that Pinduoduo should bear the loss itself.

3. Relevant civil legal issues

3.1 Whether the coupons obtained through unofficial channels are valid.

General circumstances, it should be determined invalid. The act of issuing coupons on shopping platform is actually a unilateral promise, which is a civil legal unilateral act. Only the requirements

for the entry into force of a civil juristic act specified in article 143 of “The General Provisions of Civil Law” shall be valid. Of course, as a legal person of the company, Pinduoduo has the capacity for civil conduct. Issuing coupons are a normal operation and promotion activity, which do not violate laws and regulations or public order and good customs. Therefore, whether the coupons obtained by users from unofficial channels are valid or not is mainly to confirm whether Pinduoduo has made a real and effective expression of intention.

The expression of intention may be express or implied, but generally it shall not be silent. The coupons in this case are customized for the guests of the program and are only available during the recording period of the program. After any period of time, the company has never publicized the coupon through its official page, so it can be deemed that the company has no express or implied intention. Therefore, due to the lack of valid and effective expression of intention from the coupon issuer, the unilateral promise is invalid, and the coupons received by some users through unofficial channels should be deemed as invalid accordingly.

Except in the case of bona fide acquisition. It should be pointed out that article 106 of “The Real Right Law” stipulates the bona fide acquisition system. The determination of acquisition in good faith shall meet four requirements: unauthorized disposition, transfer by the transferee in good faith, transfer at a reasonable price, registration or delivery. (i) “vulnerability coupon” is generated by some personnel through unknown technical means to generate two-dimensional code, which is not known to Pinduoduo and it is unauthorized disposal. (ii) Consumers may be determined to be bona fide for the following reasons: One is to fight a lot of friends to share the QR code of goods “share the bill” “group booking “operation as their own profit model. Second, the current major e-commerce promotional means of frequent, have launched a large no threshold coupons, consumers have reason to believe that the coupon is put more official to attract users and launched. (iii) Most of the coupon users can receive the coupon directly without extra payment. Based on the transaction habit, although the user gets the coupon at no cost, it shall be deemed as a reasonable price concession. (iv) The coupon shall be deemed to have been delivered when it is distributed to the user's account on the platform and can be used by the user according to the specified time and method. Therefore, ordinary users in the premise of no other violations, by scanning the QR code coupon are legal and valid.

To sum up, partial coupons shall be deemed invalid when they are used in large quantities despite knowing that they are “coupon loopholes”. For ordinary consumers to obtain by scanning the friend QR code, in line with the bona fide acquisition system, should be identified as effective.

3.2 Whether the shopping platform has the right to require the merchants to take actions to terminate the transaction, such as stopping the delivery of the goods.

While fixing the “coupon loophole,” Pinduoduo took a series of actions to terminate the deal to avoid further losses. The operation has sparked discussion.

The purchase of goods by customers on the shopping platform is a sales contract. Article 13 of “The Contract Law” stipulates that the parties enter into a contract in the form of an offer or acceptance. Article 14 of “The Contract Law” stipulates that the offer content shall be specifically determined. With the understanding of “specific determination of content”, referring to the provisions of article 1 of “The Contract Law’ judicial interpretation (ii) “, as long as the party's name, name, object and quantity can be determined. Therefore, in the context of shopping, the act of merchants to display their commodity information to users through shopping platform should be regarded as an offer rather than an invitation for an offer. The submission of the order by the user shall be deemed as a commitment, as it is a manifestation of the user's intention to purchase the merchant's goods. At this point, the business and user contract has been established. However, due to the flexibility of online shopping, the buyer can delete the order of goods at any time, and the seller can also remove the goods from the shelves at any time. There is no loss of the so-called trust interest, and neither party is liable for contracting negligence. Therefore, user's payment should be regarded as the condition for the sales contract to be effective. Only when the user actually makes the payment and the corresponding payment enters the third-party payment platform, will the order

become “ready for delivery”. At this point, the sales contract has been established and effective.

In accordance with the provisions of article 60 and article 107 of “The Contract Law”, the parties shall fully perform their obligations as agreed. If a party not is able to perform its contractual obligations or performs its contractual obligations in a non-conforming manner, it shall be liable for breach of contract. When the buyer makes the payment and the order turns to “ready for delivery”, the purchase contract has been set up and taken effect. The validity of the contract does not depend on whether the source of funds of the buyer is legal or not. Therefore, if the merchant not is able to deliver the goods according to the agreed time, it shall bear the liability for breach of contract.

The parties to the sales contract concluded in the process of online shopping are platform merchants and users. As a shopping platform, Pinduoduo is a third-party independent of the buyers and sellers. Based on the relativity of the contract, even if the shopping platform and merchants have concluded an agreement to terminate the transaction, it shall not be binding on consumers as a third-party. Therefore, as the shopping platform to fight more is not entitled to ask the business to terminate the transaction, if the business did not ship as agreed, should assume the corresponding liability for breach of contract.

3.3 How should the shopping platform reduce and recover its losses.

Article 122 of “The General Provisions of Civil Law” establishes the system of unjust enrichment. There are four elements to constitute unjust enrichment: one party gains an advantage, the other party suffers a loss, there is a causal relationship between one party gains an advantage and the other party suffers a loss, and the beneficial party has no legal basis. In the event of Pinduoduo, some users obtained benefits by purchasing larger amount of goods at a lower cost through the way of consumption by getting coupons, and Pinduoduo suffered great losses. However, users receive coupons by scanning other people's “coupon loophole” generated by unknown technical means, which lack legal basis. Therefore, the behavior of this part of users constitutes unjust enrichment. As the party who suffers a loss, Pinduoduo has the right to demand the return of unjust enrichment, but the means of Pinduoduo to exercise this right should be different according to different situations:

1) Take the self-help action to cancel the unused loophole coupons

For users who only receive “vulnerability coupons” but have not used them. It is in line with the principle of private relief to directly invalidate the coupons. The litigant carries on the private power relief, should have five requirements simultaneously: in order to avoid the infringement of one's own legitimate rights and interests, it is limited to restrict the rights of the parties concerned and cannot affect the third party. In case of emergency, if there is no time to request public intervention and no measures are taken, the loss will be irreparable. Pinduoduo avoid users using “vulnerability coupons” to their own losses, the user's coupons as. Because it was an emergency. If the necessary measures are not taken in time and users use coupons, the value of the coupons may be transferred to a third party platform, and the losses will be difficult to recover. And afterwards Pinduoduo also already reported a case to the Shanghai police. Therefore, Pinduoduo void this part of vulnerability coupons belongs to self-help behavior, there is a legal basis.

2) For orders that have been established and come into force, Pinduoduo has no right to terminate the transaction and can only recover after the event

For the users who have already been received and used the coupon, Pinduoduo have no right to cancel the effect order. Because both parties of the sales contract are merchants and users, the sales contract only binds both parties. As a third-party of the trading platform, Pinduoduo has no right to ask the merchants to stop shipping and other actions that damage the interests of the buyers in order to protect their individual interests.

At the same time, the second paragraph of article 49 of “The E-commerce Law” also provides that: e-commerce operators shall not agree that the contract shall not be established after clients pay the price through standard terms and other means. If such content is contained in a standard term, the contents thereof shall be invalid. Therefore, for the orders that have been established and come into force, Pinduoduo shall not defend the relevant terms in the service agreement signed between

the platform and merchants, platform and users.

Of course, Pinduoduo has the right to recover from the user for this part of the loss, but should not hinder the normal performance of the effective order. In addition, Pinduoduo has the right to require the generation and dissemination of the “coupon loophole” related personnel to assume joint liability.

3) The coupons legally and effectively obtained by users shall not be affected, and Pinduoduo can only recover from those who have no right to dispose of them

Users who legally and effectively obtain the coupons based on the bona fide acquisition system are entitled to normal consumption. Pinduoduo had no right to assert that he had suffered a loss. For this partial loss, Pinduoduo shall pursue the production and distribution of the defective coupon QR code.

3.4 Relevant criminal legal issues.

Whether an act constitutes a crime or not depends on whether the act fully meets all the constitutive elements of the crime specified in a specific provision of the specific provision of the criminal law. Criminal law has modest and ultimate applicability. As long as civil law and administrative law can adjust social relations effectively, criminal law should not be used.

3.5 Theft.

Article 264 of “The Criminal Law” provides for the crime of theft. It refers to the act of stealing public or private property secretly for the purpose of illegal possession, in a relatively large amount or for many time. Pinduoduo events should be divided into two specific analysis of the situation:

1) Ordinary consumers can get the coupons by scanning the QR code shared by others and use this vulnerability

In this case, when the user receives the coupon, he/she does not know that the QR code is generated by others using unknown technical means, and he/she has reason to believe that this is a promotional activity launched by the company. Therefore, this part of users does not have the purpose of illegally possessing other people's property, it is the lack of criminal intent, is not a crime.

2) Use unknown technical means to generate vulnerability coupon QR code and receive and use, and use technical methods to receive and use vulnerability coupons in batches

In this case, the relevant personnel have known that the coupon is not put together more official launch, and there is no legal basis for its use. It has the illegal possession of put together more loopholes coupons this virtual property crime. In addition, they use raising number, receiving code and other technical means to bypass the security protection system, a lot of vulnerabilities and use coupons, with the implementation of behavior. Therefore, this kind of behavior should be determined to constitute theft.

3.6 Teaching methods of crime.

Article 295 of “The Criminal Law” provides for the crime of imparting methods of crime. It refers to the act of intentionally imparting the specific experience and skills of committing a crime to others through certain methods. Crime is an intentional crime and requires the perpetrator to know that his experience and skills are the means of committing the crime. In the case of Pinduoduo, some people have committed the intentional crime of larceny when generating and receiving coupons for loopholes. After that, it is spread through social groups, so it should be determined that it is a crime to intentionally teach others the method of larceny, which constitutes the crime of teaching criminal methods.

3.7 The crime of invading and illegally controlling computer information system programs and tools.

Article 285 of “The Criminal Law” provides for the crime of invading or illegally controlling the programs and tools of a computer information system. All computer information systems are protected by “Criminal Law Amendment (7)”. Some personnel use unknown technical means to

generate vulnerability coupon QR code, bypass the spell more security protection system, and get and use this coupon. It has since spread throughout the entire network, causing tens of millions of damages to Pinduoduo, in a serious case which shall be determined to constitute this offence.

3.8 Crime of illegal business operation.

Article 225 of “The Criminal Law” provides for the crime of illegal business operation. It is to point to the behavior that violates state regulation, management illegally, disrupt a market order, the circumstance is serious. If a person specially uses the system vulnerability of the platform to earn benefits for others by adopting technical means such as raising the number and receiving the code, and collects “technical fees”, “cost fees” and other payments from the relevant personnel, it shall be deemed as illegal operation. In case of great profit or heavy loss to others and serious disruption of normal trading order, the case shall be deemed as serious and constitute the crime of illegal business operation.

4. Summary

Through a brief analysis of the incident in which Pinduoduo was “Clip Coupons “, we can know that” Clip Coupons “is also a certain legal risk. Shopping platform may be because of its own technical loopholes were exploited by criminals, white suffered large losses. Customers may be obsessed with the quick buck. Moreover, black and gray organizations may be punished by law for violating the criminal law. Only through fair and honest transactions and voluntary compliance with relevant laws and regulations can we maintain a prosperous and orderly online shopping environment and promote the sustainable and healthy development of the e-commerce industry.

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