

Consumer Rights Protection Law in the Governance of False Advertising: A Case Study of Live Streaming Commerce

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Abstract

With the rise of live streaming commerce, the issue of false advertising has gradually emerged in this new business form, severely affecting the effectiveness of consumer rights protection. Based on the "Consumer Rights Protection Law," "Advertising Law," and "E-commerce Law," this paper analyzes the characteristics and current situation of false advertising in live streaming commerce, revealing the main governance challenges in terms of legal applicability, responsibility definition of platforms and hosts, and enforcement difficulties. At the same time, the paper draws on foreign governance experience and proposes governance pathways and suggestions, including strengthening platform self-discipline, clarifying legal responsibilities of multiple entities, and introducing digital regulatory technologies. The study shows that improving the governance framework for false advertising in live streaming commerce is not only necessary to respond to the development changes in the consumer market but also essential to protect consumer legal rights and optimize the market environment.

Keywords

Live Streaming Commerce; False Advertising; Consumer Rights Protection; Legal Governance.

1. The Current Situation of False Advertising in Live Streaming Commerce

1.1. Definition of False Advertising

False advertising refers to publicity containing untrue or misleading content aimed at influencing consumer purchasing decisions. According to Article 28 of the "Advertising Law of the People's Republic of China," advertisements shall not contain false or misleading content and shall not mislead consumers. In recent years, live streaming commerce has become a widely applied form of e-commerce, but it has also exposed a large number of false advertising issues.

1.2. Common Forms of False Advertising

(1) Exaggeration of Product Functions. In live streaming commerce, exaggerating product functions is one of the most common forms of false promotion. Many hosts, when promoting health products, beauty products, or electronic products, exaggerate their effects or functions. For example, some cosmetics are claimed to be able to "quickly remove freckles" or "rejuvenate," but the actual use effects are significantly inconsistent with the promotion. Such exaggerated promotion directly misleads consumers, violating the principle of truthfulness in advertising.

(2) Fabrication of Sales Data. The phenomenon of fabricating sales volume and viewer numbers in live streaming commerce is common. Some hosts or merchants, in order to create a "hot sale" atmosphere, use technical means to increase viewer numbers and even complete inflated sales records in a short time to attract more consumers to place orders. This practice of creating a

false impression of product "popularity" through data fraud not only misleads consumers but also disrupts the fair competition in the market.

(3) Misleading Promotion. There is also a large amount of misleading promotion in live streaming commerce. For example, some hosts do not clearly inform the applicable population or possible side effects when promoting food or health products, leading consumers to purchase unsuitable products without knowledge, which may even pose health risks. In addition, some products are claimed to have therapeutic functions in live streaming, but in reality, they are only ordinary food or health products. Such behavior not only involves false advertising but may also touch on the "prohibition of using advertisements to harm public interests" clause in the "Advertising Law." [1]

1.3. Existing Domestic Legal Provisions

The "Consumer Rights Protection Law" aims to protect consumers' right to know and fair trade rights, specifically stipulating that businesses should provide goods that meet quality requirements and not engage in false promotion. According to Article 20 of the "Consumer Rights Protection Law," operators shall not make false or misleading publicity. This means that in live streaming commerce, the advertising behavior of merchants and hosts should comply with the principles of truth and transparency and shall not infringe upon consumer rights through false promotion.

As one of the core laws in the governance of false advertising, the "Advertising Law" clearly defines false advertising in Article 28, prohibiting advertisements from containing false or misleading content. The law further stipulates the legal responsibilities of advertisers, advertisers, and spokespersons, especially requiring commercial spokespersons to be responsible for the content of their promotion. In live streaming commerce, the host acts as both an advertising spokesperson and promoter, so the "Advertising Law" has a direct binding effect on the host's behavior in terms of the authenticity of advertisements and the responsibilities of spokespersons.

The "E-commerce Law," implemented in 2019, further supplements the advertising supervision rules in the e-commerce environment. Article 17 of the law clearly states that e-commerce operators shall not deceive or mislead consumers by false propaganda or other improper means, and e-commerce platforms should undertake necessary supervision obligations. This provision provides a legal basis for the governance of live streaming commerce platforms. Especially on live streaming commerce platforms, the cooperation models between merchants and hosts are diverse, and the platform's responsibility for false advertising control becomes an important link.

1.4. Foreign Legal Framework for False Advertising Governance

The United States' "Federal Trade Commission Act" stipulates that false advertising is an unfair business practice, supervised by the Federal Trade Commission (FTC). The FTC's "Endorsement Guides," particularly targeting promotion behavior on social media and e-commerce platforms, require spokespersons to clearly disclose their business relationships with brands. According to the guidelines, advertising spokespersons such as hosts need to publicly disclose their commercial relationships with merchants to ensure that consumers are aware of the source and authenticity of the information.

The European Union mainly relies on the "Unfair Commercial Practices Directive" (2005) and the "Consumer Rights Directive" (2011) for e-commerce advertising regulation. These directives require all business practices to follow the principle of good faith and not to deceive consumers by misleading means. For example, the "Unfair Commercial Practices Directive" provides detailed regulations on misleading information and false advertising, and consumers have the right to claim compensation.

2. Legal Challenges in the Governance of False Advertising in Live Streaming Commerce

2.1. Unclear Responsibility Definition Among Multiple Parties

In live streaming commerce, platforms usually play the role of information intermediaries and market organizers. According to Article 38 of the "E-commerce Law," platforms should bear corresponding responsibilities when they know or should know that merchants are engaging in false propaganda. However, the standard for whether the platform "knows or should know" is not easy to define, especially in the highly dynamic live streaming commerce scenario where it is difficult for platforms to monitor the behavior of each host or merchant in real-time.

Hosts, as the direct conveyors of false advertising, have controversial responsibility determination. According to Article 38 of the "Advertising Law," advertising spokespersons need to be responsible for the authenticity of the content they endorse. However, whether live streaming hosts directly apply the responsibility of advertising spokespersons still has legal gaps.[2] Some hosts do not fully understand the product but rely on the promotional content provided by the brand to promote, and whether they should bear joint liability for false advertising lacks clear legal guidance.

The direct responsibility of the brand is relatively clear in law, but due to the lack of clear division of responsibilities among multiple parties, the brand often shifts blame with the platform and the host. The brand has a leading position in providing product information and advertising materials, but when the promotional behavior during the live streaming process deviates from the brand's prior arrangements, whether the brand still bears joint liability lacks clear legal provisions. The vague responsibility definition among multiple parties leads to a lack of behavioral norms in live streaming commerce, posing great obstacles to consumer rights protection.

2.2. Great Difficulty in Law Enforcement

The false advertising behavior in live streaming commerce has the characteristics of immediacy and concealment, posing challenges to evidence collection. The live streaming process has timeliness and dynamism, and false advertising content is often published and deleted in a short time, making it difficult for regulatory agencies to obtain effective evidence in a timely manner. Moreover, some hosts may use veiled or suggestive expressions during promotion, which increases the difficulty of evidence collection. In addition, the huge amount of live streaming video data makes it difficult for traditional law enforcement methods to achieve comprehensive monitoring. For example, some merchants use "water armies" or technical means to fabricate sales data, making false advertising evidence show technical complexity, increasing the difficulty of evidence identification.

The process of tracing responsibility for false advertising is also complex. In the live streaming commerce process, platforms, hosts, and brands may be located in different regions or even across borders, increasing the difficulty of law enforcement coordination. In addition, different entities may have multiple agency and cooperative relationships, and the final attribution of responsibility often requires cross-domain investigation and coordinated law enforcement, increasing the cost of accountability. For example, some foreign brands promote through local agents, and when consumers suffer from false advertising, tracing back to foreign brands often faces legal application difficulties, which also affects the actual rights protection of consumers.

The regulatory authorities' monitoring methods in the governance of false advertising in live streaming commerce are relatively lagging. Due to technical and human limitations, regulatory authorities find it difficult to monitor the huge number of live streaming commerce activities in real-time, and the processing process of manual reports is long, making it difficult to stop infringement in time. Although regulatory authorities have strengthened the application of

technical means in recent years, such as using big data screening and AI technology to identify suspected false advertising behavior, technical means still find it difficult to fully cover the complex situations in live streaming commerce, and the timeliness and precision of law enforcement still need to be further improved.

2.3. Insufficiency of Existing Regulations

Existing laws have fewer normative provisions for live streaming commerce advertisements. Taking the "Advertising Law" as an example, the law focuses on the norms of traditional media advertisements and lacks detailed provisions for the dynamic and interactive live streaming commerce advertisement form. For example, traditional advertisements have a relatively fixed content review and release process, where advertisers need to review and release through specific channels, while live streaming commerce advertisements are flexible and change rapidly, making it difficult for existing regulations to apply to real-time review or subsequent responsibility determination. The lack of legal norms for live streaming commerce leads to a lack of clear law enforcement basis for the determination of false advertising responsibilities, increasing the difficulty of legal application.

(1) Existing laws have not fully adapted to the social characteristics of live streaming commerce. Live streaming commerce uses the personal influence of the host to establish a trust relationship with the audience to enhance the effectiveness of advertising, a model that has not yet been regulated in the Advertising Law. The host interacts closely with consumers, and consumers have a high level of trust in the host, making the concealment and misleading nature of false advertising stronger.[3] The existing law defines the responsibility of advertising spokespersons mainly in the context of traditional endorsement scenarios and has not fully considered the responsibility issues of the host as a new role.

(2) There is a lack of deterrent in the penalties stipulated by existing laws. Although the "Advertising Law" and "E-commerce Law" have set corresponding penalties for false advertising, the fines are not sufficient to deter illegal behavior compared to the high profits that can be generated in live streaming commerce. Some merchants or hosts, driven by profits, choose to take risks, leading to the persistence of false advertising. In addition, the existing laws on consumer damage compensation are more principled, and consumers often face difficulties in providing evidence and long litigation periods when defending their rights, further weakening the deterrent power of the law.

3. Governance Measures and Innovative Mechanisms for False Advertising in Live Streaming Commerce

3.1. Platform Responsibility and Self-Discipline

(1) Platforms should strengthen their review responsibilities for the release and dissemination of advertising content and establish a monitoring system that combines automation with manual efforts. Based on big data and machine learning technology, platforms can use content recognition technology to automatically screen for potential false information in advertising content. For example, using image and text recognition algorithms to identify advertisements that exaggerate functions or fabricate data. At the same time, platforms can set high-risk keywords, monitor hot live streaming rooms in real-time, and regularly investigate the risks of false advertising.

(2) Platforms should establish a comprehensive consumer complaint handling mechanism and information disclosure mechanism to improve the transparency and credibility of false advertising governance. According to Article 40 of the "E-commerce Law," platforms should clearly and promptly handle user complaints and provide consumers with convenient feedback channels. Platforms can set up false advertising reporting channels and disclose the reporting

situation in a timely manner, forming a public supervision mechanism. In addition, platforms should regularly disclose specific measures and results of false advertising governance to enhance public trust.

(3) Drawing on international experience, strengthen cooperation between platforms and regulatory authorities: Drawing on the governance experience of mature markets in Europe and America, cooperation between platforms and regulatory authorities is of great significance to the effectiveness of governance. The Federal Trade Commission (FTC) in the United States cooperates with large platforms, requiring them to share data on false advertising in real-time, effectively enhancing the transparency and effectiveness of governance. Chinese platforms can draw on this model, through data sharing and technical linkage, to improve the efficiency of cooperation with regulatory authorities and ensure that governance measures can accurately cover various advertising violations.[4]

3.2. Legal Responsibility of Hosts and Brands

(1) As the direct publishers of live streaming commerce advertisements, hosts should bear the responsibility of reviewing the authenticity of the content. When recommending products or services, hosts should have a basic understanding to avoid directly quoting unverified information provided by the brand, ensuring that their understanding and evaluation of product features are true and accurate. It is recommended to add specific responsibility clauses for hosts as "advertising spokespersons" in the "Advertising Law" or "E-commerce Law" to clarify their legal obligations for the authenticity of advertising content. For example, hosts should bear joint liability for false advertising; if the content of false advertising misleads consumers, they should bear corresponding economic compensation to enhance their sense of responsibility.

(2) Brands are the actual providers of advertising content and bear the primary responsibility for false propaganda in live streaming commerce. Brands should ensure the truthfulness and accuracy of all promotional materials provided to hosts and bear direct responsibility for the legal consequences of the content. To avoid the phenomenon of brands and hosts shirking responsibility, it is recommended to establish a brand responsibility tracing system, requiring brands to issue a responsibility statement for the truthfulness of their product promotional content to avoid consumer harm due to information asymmetry.

(3) For consumer damage caused by false advertising content, a clearer accountability mechanism should be introduced. Regulatory authorities can draw on the United States' "Endorsement Guides," requiring hosts to publicly disclose their cooperative relationships with brands to increase the transparency of advertising dissemination. For serious false advertising, the law can stipulate additional punitive measures, such as large fines or bans on live streaming commerce, to increase the deterrent power of the law.[5]

3.3. The Role of Regulatory Authorities and Digital Regulatory Innovation

(1) With the help of big data and artificial intelligence technology, regulatory authorities can monitor and warn of risks in advertising information in live streaming commerce in real-time. For example, using natural language processing (NLP) to analyze live streaming videos and text content, monitoring exaggerated, misleading language, etc., in real-time. At the same time, through machine learning algorithms, automatically detect abnormal fluctuations in sales data to identify behaviors that fabricate sales data.

(2) To improve the traceability of false advertising responsibility, regulatory authorities can promote the use of blockchain technology by platforms to record the release and modification process of advertising content. Through the immutability of blockchain, information such as the advertising release entity, time, and content can be permanently retained, facilitating future investigation and accountability. The application of blockchain in advertising governance not

only enhances the transparency of advertising content but also provides consumers with more reliable evidence.

(3) Due to the cross-platform and multi-party participation characteristics of live streaming commerce, regulatory authorities should collaborate with multiple departments such as the Market Supervision Administration and the Communications Administration to form a cross-departmental linkage mechanism. For example, by establishing a false advertising risk warning center, a unified false advertising report and handling mechanism can be formed to improve the rapid response capability of law enforcement. In addition, regulatory authorities can establish a "blacklist" system for enterprises, publicizing and restricting brands and hosts with serious false advertising behavior, providing early warnings for consumers.

4. Conclusion

In the future, the governance of false advertising in live streaming commerce needs to further improve the regulatory framework and formulate special regulations applicable to emerging digital formats. By combining legislative, technological, and social participation means, the infringement issues of false advertising can be gradually resolved, consumer rights can be protected, and the market order can be positively developed. Legislative bodies, regulatory authorities, platforms, consumers, and other parties should work together in this process to build a fair and transparent market environment and ensure the healthy and sustainable development of the live streaming commerce industry.

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