

# Consumer Right to Privacy in E-Commerce - A Comparative Study

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**Abstract:** *The value of e-commerce has grown exponentially with the increasing use of the Internet. Privacy is very important in e-commerce. Recently, the protection of the privacy of consumer transactions has become increasingly important in e-commerce. This paper aims to develop research into consumer commerce protection law. It is a comparative study of appropriate privacy rights regulations in the European Union, the United States and Japan. The most representative policy would be the Data Protection Directive in the EU, which not only regulates the e-commerce consumer rights policy in protecting privacy, but also sets out certain measures to be observed. The current situation and problems in China are also being analyzed and further recommendations are being made to improve the legal system of the right to privacy. This paper identifies indications of future developments in privacy protection from a legal perspective.*

**Keywords:** Right to Privacy, E-Commerce, Legal Protection, Consumer Rights

## 1. Introduction

“E-commerce” is widely used to describe shopping at the Internet. It has been steadily improving with the development of information technology and network technology. [1] However, the concept of ecommerce is broader than online shopping. Includes all business transactions based on electronic transactions and data transmission, text, audio and photo. Electronic transactions are made between company and consumer, among different companies.

While both raise technical security issues, they do especially the first type of work that raises privacy issues. Also, the protection of the privacy of consumer transactions in E-commerce is very important. Icon it is therefore important to strengthen the study of the law of e-commerce consumer rights protection.

China pays attention to consumer rights to protect all the time and make the right laws as well regulations to protect consumer rights. However, most these rules and regulations are for the sole purpose protection of consumer rights in general without specification provisions for the protection of consumer rights in e-commerce. In stark contrast, developed countries and areas with advanced technology knowledge, prop. For example, the EU, the United States, and Japan have set up a comprehensive system of legal protection e-commerce consumer rights [2].

In times of ubiquitous electronic communication too increasing industry pressure for standard electronic verification, confidentiality (the right to manage personal information) becomes the subject growing anxiety. The possibility of "invisible people" is already very evident in e-commerce, because large amounts of data are available, in part to the top the expected benefits of using this data commercially objectives. [3] Therefore, the right to privacy in particular important in e-commerce. In this paper, a comparison a study was conducted on how it protects the consumer's right to learn the truth in e-commerce, compare the right laws and regulations in China and developed countries.

## Definition and Characteristics of E-commerce

E-commerce contains the purchase and sale of products or services through electronic means such as the Internet and other computer networks. As a new business model, it is a commercial activity that uses electronic and digital methods. The parties conduct electronic trading transactions rather than face - to - face transactions. [4] Modern electronic commerce uses the World Wide Web at least some time in the transaction process, although it may include a wide range of technologies such as email. Commercial use is done in this way, promoting and drawing new ways of transfers, asset management, online marketing, online transactions, electronic data exchange (EDI), asset management systems, and automated data collection systems. The features of e-commerce come from the benefits they provide. With computer and network technology, e-commerce creates a global business environment without time and space limits, has significantly expanded markets, reduced costs, improved traditional industrial transformation and improved service efficiency and quality in business operations [5]. E-commerce is well - suited to the creation of a modern business circulation system and has become an integral part of today's service sector. There are several aspects of e-commerce trading that are very different from traditional commodity sales. First, only buyers can find product details through an ad, rather than looking at the actual, selected or reviewed. If online retailers do not disclose all relevant information and provide false information, consumer interests will be violated. Second, the transfer of funds paid for goods cannot be done immediately. Typically, in e-commerce sales, consumers send to online retailers first and then tell them what they want. Online retailers will send the goods to the buyer after receiving the money. Third, one of the most important aspects of ecommerce transactions is to ensure that a formal contract is entered into between the parties. Checking the authenticity of contracts is difficult in the Internet environment because the contracts are undocumented. The digital signature system is therefore important in helping to develop e-commerce because it ensures that all parties enter into a binding agreement.

## The Right to Privacy and Its Characteristics

The concept of privacy is very interesting. Perhaps the most striking feature is the fact that there is no agreement on what it actually is. The "right to privacy" has sparked widespread controversy in many fields, including legal, philosophical, social, political, and more recently, computer science. The debate is complex, complex, and sometimes surprising [6]. In addition, how the right to privacy goes hand in hand with the e-commerce world is a major issue. Today e-commerce transactions require the disclosure of a large amount of personal information. Required details include credit card details and delivery details. And the availability of such information gives e - business the opportunity to analyze, discover trends and increase the efficiency of their business. Consumers generally did not have a list of possible uses for which access to this information was permitted, so they had no information about possible violations of their privacy [7]. However, over the past decade, consumer awareness of privacy has increased, especially for Internet users. They begin to demand that their privacy be respected by e-commerce, which requires the protection of consumer rights in e-commerce.

## Policies of Major Legal Systems

### The Data Protection Directive of the EU

On October 24, 1995, the EU Council of Ministers passed the EU Data Protection Directive, which was to be officially implemented three years later. On September 12, 1996, the EU Council adopted the Electronic Communication Data Protection Directive, in addition to the Data Protection Directive. In October 1998, the EU enacted the Personal Data Protection Act, which was also revised from the 1995 Directive. Early in 1999, the European Commission published the General Principles on Personal Data Privacy Protection on the Internet, and secretly announced the Guidelines. and automated personal data processing of software and hardware on the Internet. At the same time, the EU Ministerial Conference set out a framework for the Protection of the Individual Rights which deals with the collection of personal information and the analysis of the information highway. In view of the different levels of protection of personal information in member states, the EU established a Directive to integrate these standards. One of the great things of the Directive is that the extent of protection is extended into manual data. There are two basic purposes of the Directive: the first is to protect the fundamental rights and freedoms of the natural person, in particular their rights to privacy; secondly to ensure that information is freely distributed to member states in accordance with the general principles of free movement of goods and services [8]. The EU Directive provides high standards of data protection and efforts to eliminate barriers to data transfer in the 15 member states. In the meantime, in order to transfer information between member states and countries outside the EU, the Directive stipulates that the country must adopt the same protection standards as EU countries. EU member states are not allowed to transfer their data to any non - member state, until it provides adequate data protection. The measure adopted by the EU is used to protect personal data and to protect other data from

accidental vandalism. In addition, accidental data loss, modification of data, unauthorized access to data or disclosure, and other forms of unauthorized operation, are protected to a minimum. The EU announced it was barring American Online, Bell, Atlantic, and other American businesses from sending customer information across the Atlantic in 1998 according to the EU Directive. This has led to controversy over the issue of data confidentiality between the United States and the EU. In the United States, data transfer is done by the carriers themselves, while in Europe, a manager who violates data protection law will be fined. The EU and the United States have reached an agreement on "safe harbors" each, which is used to control the range of data transfers between them. The agreement also tells American companies how they should provide adequate protection of personal information within the limits of the Directive. But only a handful of American companies have signed a pledge to comply with the agreement. The directory prohibits American companies from collecting, organizing, storing, receiving, in - depth, communicating or disclosing personal information collected in Europe; that is, it prevents any "data processing" behavior. According to the directive, data administrators have two responsibilities. One obligation is to ensure the quality of the data. According to Article 6 of the Directive, data administrators must ensure that personal information is processed under fair and reasonable conditions. The guide provides specific data quality monitoring principles, which are used to control access to information and the type of data available. Regulations require that data administrators act as follows: they have the legal intent to collect data and interpret the purpose; they collect only relevant information for the purpose; maintain the information required to achieve the purpose; ensure accurate and accurate information; provide appropriate security measures to protect data; allow people to visit their details and correct inaccurate information; inform data collectors about the status of personal data, the purpose of data collection and the status of third parties who will receive the data in the future; explain whether the person should or should provide information.

### The Self - Regulation Model in the United States

The United States is one of the countries where Internet technology is being advanced. In the United States, concerns about privacy protection and accepted measures have been kept to a minimum. The House and Senate passed a privacy law in 1974, which is the basic law for the protection of privacy in the country. The law provides that powerful public bodies have the power to collect and use personal information, and it states that public bodies cannot use any confidential information without the consent of the parties. In 1986 Congress passed the Electronic Communications Privacy Act, the most important act dealing with the privacy issues of e-commerce consumers. In the United States, the protection of e-commerce consumer privacy rights has been sought through autonomous mechanisms by the e-commerce industry. Self - regulatory measures fall into four categories. The first is a constructive industry guide. For example, the Online Privacy Alliance (OPA) in June 1986 announced its online privacy policy, which states that members agree to accept and apply its privacy policy, but do not recognize the effectiveness of members. The second group is an e-

commerce privacy guarantee program, which means that private businesses are committed to realizing e-commerce privacy protection. The third category is technology protection, which focuses on protecting the right to privacy by consumers themselves. By using software technology to protect the right to privacy, consumers may be automatically notified before logging into a website as to what information will be collected. The choice to continue or not depends on the consumer. In addition, consumers may decide in advance which data to collect, and they may select valid data in advance, other non-selective data will not be collected. The latter group is the way to a safe port, as a new system that combines self-regulation with the rules of law. The so-called safe port refers to the e-commerce privacy protection guidelines announced by certain online service providers. U.S. law enforcement agencies have largely used sector controls to protect e-commerce consumers' right to privacy. But first and foremost, it is the legal right to protect children's right to privacy. The United States passed the Internet Protection of the Child Protection Act on October 21, 1998 and came into effect on April 21, 2000. This is the first active network privacy action in the United States, and the first real network law in which consumer rights and interests are first considered. The action is focused on protecting children's privacy rights, which explicitly provides provider obligations and penalties when the consumer is 13 years of age or younger. In recent years, the United States has come under pressure from EU restrictions, at the same time the domestic regulatory effect is incomplete, so the call for legislation on e-commerce consumer privacy has already emerged. The United States government has insisted that the problem be handled by Internet companies. The United States has not yet enacted a comprehensive and systematic law to protect the e-commerce law of privacy rights, due to special e-commerce development considerations. Afraid to block Internet development due to chasing law. In addition, the United States is a country of criminal law and criminal law also plays an important role in protecting the privacy rights of e-commerce consumers [9].

### **The Private Data Information Processing in Japan**

In the 1980's, Japan introduced the "Private Life Protection Research Group", which conducts research on the subject of Consumer e-commerce is the right to privacy. September In 1982 the Japanese government introduced policies protection of privacy in the use of personal information, prioritizing the principles of new governance the law. These policies are implemented in the following four phases. The first is the principle of limiting collection.

When collecting personal information, the purpose of collection must be clear, at the same time, the content of details should be withheld the required information. In addition, the collection of information should be it is done in a fair and just manner. The second is the principle to limit the use of building materials. Use of personal data, basically, should be limited internally the size of the collection objectives. Third is the principle of personal participation. Steps must be taken allowing each person to be present and content by personal details, and where necessary, can update details. The last one is the principle of merit management.

Personalized or collected personal items should be treated in a fair and new manner. On at the same time, they should be prevented from being stolen, corrupted, altered, and improperly distributed, and so on.

### **A Comparison on the Protection of Right to Privacy**

Currently no country has full legal protection for the privacy of e-commerce consumers, however many countries are more concerned about this issue than before. Some countries with advanced network technology have provided more laws to deal with this issue. From a legal point of view, there are two options. Another merger law, adopted by EU and United States. This method means rules they are controlled by the public agency and the private sector.

Another divisive law, which also takes society private institutions as various management courses. From the concept of protection, there are two types of methods. Another form of legislation, widely accepted in EU and Canada. It is the government that makes the laws and regulations. Another form of self-regulatory industry that is widely accepted in the United States. On March 11, 1996, the European Parliament and The EU Council set out the details in the official database protection. It required EU member states to pass domestic law January 1, 1998, and practice information content in their countries. The International Standardization Organization (ISO) Consumer Policy Advisory Committee has proposed standard of international personal privacy [10]. Icon you are ready to manage this level of IT and e-commerce privacy. Appoints a technical committee to oversee it of privacy issues. International Telecommunication Union (ITU) did not stop at establishing technical standards for the protection of multimedia terminal privacy, but also the development of appropriate commerce standards that include privacy issues. Universal Postal Union (UPU) is operational a global policy framework for independent consumers data including encryption and authentication.

Among the above privacy protection measures, the most representative is the EU Data Protection Directive, which does not only provide legislation with the e-commerce consumer right to protect privacy, however and sets out certain procedures to be followed. United Countries use the self-regulatory approach to to protect the privacy of e-commerce customers.

However, self-control has come many problems. Therefore, the word to call the law in the protection of the consumer's right to e-commerce is higher than ever [11] Canada and Japan have failed after the United States and the EU in trade the law. They have only certain rules in protecting consumer e-commerce privacy rights, but without a clear policy guide, how can it all be resolved problems rely on these specific rules? Use the basics above, are the EU most generous comprehensive regulations to protect e-commerce consumers right to privacy [12].

## **2. Discussion**

### **The Current Status in China**

Currently, China has a number of legal departments involved in the protection of personal privacy, but it has never developed a comprehensive system as the concept of the right to privacy is not well defined by law. In civil law, it is considered an independent element of human nature and is governed independently. China is taking an indirect approach to protecting the right to privacy. In order to protect the right to privacy, the Supreme Court of Human Rights has ruled in our favor in a case of infringement. This definition of judgment is used to respond to this emergency by taking an alternative approach to protecting the right to privacy indirectly. Therefore, this is a necessary addition to the legislature. However, the failure to combine the right to privacy with the right to a reputation is evident. Certain laws regulate certain aspects of protecting the privacy of citizens [13]. For example, Articles 39 and 40 of the Constitution state that a citizen's home is inalienable, that freedom of privacy and citizenship documents are protected by law. Section 140 of the General Rule of Civil (Trial) Law states that confidentiality is considered a violation of the right to dignity. Interpretation of Questions in the Status of Depression in Civil Tort means that people who violate the privacy of others will compensate for the trauma. Also, sections 252 and 253 of the Criminal Code regulate criminal liability for infringing on free communications. Violating the privacy of e-commerce customers involves illegally collecting and disclosing personal information and obtaining or disclosing personal information illegally without the consent of others. In addition, online retailers, in order to promote goods or services, send unsolicited emails to consumers without permission, infiltrate consumers' lives, and violate e-commerce consumer privacy. Currently, there are no applicable laws and regulations to address these violations in China.

### **Existing Problems in China**

The e-commerce consumer in China cannot address the traditional protection of the right to privacy or specific laws to protect the privacy of e-commerce consumers; currently the only privacy protection for e-commerce consumers is privacy protection statements on websites. Most of these statements are included in the policy report on the website. In fact, policies have nothing to do with the use of personal information; moreover they are written in unambiguous terms and are often linked to multiple stages of exemption. From the point of view of the legal status of the right to privacy in China, there are good laws for the protection of privacy in the Constitution, the general principles of the Legal Act, Criminal Law, Administrative Law, Procedure Law, etc., but there are still many errors. First of all, the right to privacy is not clearly defined as an independent right that is separate from human nature by law. The Constitution only guarantees that the personal dignity of citizens should not be violated, that citizens' residences should not be violated illegally, and that confidential communications are protected by law. The General Principles of Civil Law, as the most important legal profession, does not explicitly provide a concept of the right to privacy, nor does it regard the right to privacy as an independent part of human nature. Judging protects the right to privacy in ways that protect the right to privacy. While this provides a way to protect privacy, it is clear that it will not meet the requirements in

terms of the amount of privacy protection. A large number of administrative and judicial translation rules provide privacy protection, but its content is dispersed by separate laws. The Public Procurement Act does not authorize citizens to lodge a complaint if their right to privacy is violated. The victim may have access to legal remedies for other matters such as copyright, dignity, etc., but if victims experience complete conflicts over their right to privacy, they are often unable to file a claim for legal aid as an independent right. Second, existing laws regarding the right of citizens to privacy cannot meet the need for advanced technology in the e-commerce era. With the development of modern society, other products that endanger the right to privacy are emerging, such as phone calls, surveillance, video, etc. In particular, the development of computer network technology poses a new threat to the protection of the right to privacy. China has certain relevant provisions, such as the Computer Information Network International Online Security Protection Approach, and the Computer Network International Online Management Approach for Chinese citizens regulated by the Ministry of Posts and Telecommunications [14]. However, these conditions are provided primarily with a view to national security and social stability. Lack of clear privacy protections. In addition there are other provisions related to privacy protection, but the protection is not comprehensive.

### **Suggestion to Perfect the Legal System**

In my view, the e-commerce consumer rights framework in protecting privacy should adopt laws / regulations, create conditions and use of technology as a basis. Because the realities of China are different from Europe and the United States, the same methods cannot be applied directly. It is best to take advantage of those features that can be used in China. In Europe, personal information is considered part of one's personal property, and the right to privacy is one of the fundamental human rights. Most European countries are very concerned about the protection of privacy, especially the protection of personal information, so many European countries have laws that protect personal information. The United States focuses on protecting government personal information agencies while promoting the autonomy of the private sector, in line with the traditional position in the United States - small government and large corporations. There are not many businesses with a long history and a good reputation in China, so if these businesses were not allowed to govern themselves with their own procedures without the rules, regulations, and administration associated with government agencies, they would not be trusted by the people. In other words, pure self - government cannot work in China. In order to make the Internet a truly free trading platform, and to fully protect consumer rights and e-commerce interests, government - established networking is very important. That is, the government must regulate and enforce laws and regulations. China is a country with a legitimate legal system, which cannot be changed in the modern legal system. The law is a popular solution to protect the privacy rights of e-commerce consumers. However, if it is limited to government, or business, or individuals, the e-commerce consumer's privacy will be difficult to protect [15]. Only cooperation between these parties, the problem will be solved, and the injury or loss



will be reduced to a minimum. There is no conflict between law and order, but the two must go hand in hand. So, based on the cultural and social backgrounds currently in China, in my opinion, the best measure to take a defense mode involves basic law and corresponding self - regulation.

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