

EFFECTIVE LEGAL TOOLS TO COMBAT UNFAIR TRADING PRACTICES IN THE DIGITAL MARKETPLACE

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Today, electronic trading relations in the digital market are replacing traditional trading all over the world, providing consumers with the opportunity to choose and buy products at a convenient time, place and speed, and to conduct trading activities without separation from production. Digital market activities are the sphere of circulation of goods or services being realized, using the internet through an operating system, software, online search engine, mobile application or digital platform, created in order to ensure that the interaction of the seller, buyer and other users associated with each other can be carried out and bring benefits for at least one of the parties. In the digital market trading relationship, which has the convenience of reducing overtime and costs, unlike traditional trading, issues such as not violating the rights and interests of the parties, not harming the consumer are also important. In electronic trading in the digital market, it is one of the urgent tasks of today to ensure the reliability of electronic trading by protecting competitors and consumers from various unfair trading practices and eliminating non-competitive trading methods.

As electronic trade relations in the digital market develop, along with problems and regulatory issues, there are also anti-competitive situations, as in traditional trade. In particular, in practice, individuals who sell goods (works, services) in electronic commerce that use Unfair trade practices in the market by influencing the price of goods (works, services) with predatory prices of their companies, harm consumers in the long term with false guarantees, false endorsements of the product, false advertising, exploiting the disadvantages of customers, misrepresenting the quality and price of the product are often observed. And special norms that regulate them should be manifested in the rules governing electronic trade. On July 6, 2020, the decree of the President of the Republic of Uzbekistan No. 6019 was adopted “On additional measures to further develop the competitive environment and reduce state participation in the economy” in order to eliminate such problems, in particular, to protect competition in digital markets. It was through this decree that the issue of introducing effective means of antitrust regulation of the digital economy was made relevant.

Although unfair competition is very much observed in trade relations in the digital market today, there is a great need to create influential mechanisms in the

legislation to prevent unfair competition in the digital market, even because the current competition legislation does not completely regulate anti-competitive actions in digital market relations. In digital markets, as a rule, three categories of unfair trade practices are observed a lot:

1) practices that encourage consumers to consent to data collection through the promise of hiding their data;

2) practices that use targeted and interface design strategies based on uncertain data to undermine consumer autonomy;

3) practices that concentrate information that creates or increases the risk of exploiting their vulnerabilities through design or consumer indifference.

Dissemination of misleading and false information, unfair practices, unfair contract terms, competitive price increases by economic entities in the digital market and while forms such as commercial use of confidential personal information are observed on digital platforms, issues such as ensuring consumer interests and security remain open due to gaps in legislation.

In addition, there are new types of unfair competition in the digital market that differ from the forms of the traditional market – modern unfair trade practices, all of which express the characteristics of unfair competition with their own characteristics. Below we will consider the most common types of unfair trade practices in digital market relations.

Consent of the consumer. E-commerce entities must provide the consumer's express consent to the consumer's purchase of any product or service offered on their platform. Typically, a consumer's consent to a purchase is automatically obtained by a system on the platform by ticking a pre-defined box. In such cases, failure to give the consumer the opportunity to accept the terms and conditions of the purchase by clicking the payment button during checkout will automatically force him to agree to the terms of such purchase. This is an unfair trade practice, and in order to prevent such an anti-competitive act, a clear confirmation of the consumer is necessary before the purchase. In e-commerce, when expressing consent by ticking a box, it is also important that this consent is required by the consumer after registering on the online e-commerce platform or that consent is required each time the consumer makes a purchase transaction. In the legal experience of some foreign countries, provisions requiring the creation of an opportunity to allow consumers to purchase from the site without any registration and to leave the site as a "guest" in e-commerce, and to give the consumer explicit consent to the purchase only after familiarizing himself with the terms and conditions of the purchase there is.

Discriminating consumers and exploiting their disadvantages. Refusal to sell products to foreign consumers prevents the emergence of a true single market for e-commerce. Refusal to sell products to consumers is one of the unfair

marketing strategies, where e-stores can refuse to allow consumers with IP addresses from certain countries to shop online. Refusal to sell a product to a customer usually occurs at one of the stages of placing an order. Often, the consumer realizes that it is impossible to make a purchase right when they try to place an order. Consumer demand for a particular product can be affected by various forms of consumer discrimination by refusing to sell. The goal of such unfair trade practices is to offer consumers residing in a particular country a completely different selection of products than those offered in another country. Also, consumers' choices are often redirected from a selected foreign e-store to an e-store located in their country of residence that only sells a specific selection of products. In this case, service providers use automatic redirection and redirect the consumer to another e-store without the consumer's consent or knowledge. These practices can lead to consumer frustration, exclusion from the internal market or even discrimination based on country of residence.

However, there is also the practice of classifying consumers into different categories of different classes or sellers. In e-commerce regulations, no discrimination should exist between consumers of "a certain category", or any classification between consumers that directly or indirectly affects consumer rights should not be allowed to be implemented.

In the legislation of foreign countries, there are rules and conditions that regulate the relations of e-commerce entities with sellers on their platforms, including norms that impose on the market the obligation to disclose the description of the differentiated procedure for any particular sellers or any goods or services.

There are also cases of increased income through the use of consumer disadvantages in e-commerce. In particular, unfair trade practices are also found, such as using the consumer's ignorance of the language or his shortcomings as a representative of the socially vulnerable layer to harm them by deceiving them, convincing them of misinformation.

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Product Warranties and Misrepresentations. Guarantees such as money-back guarantee or offering free repair or replacement of sold products can make the product more attractive for entrepreneurs, but can also create an obligation to fulfill their guarantee as a result of the negative effect of advertising. In e-commerce, as in traditional trade, unfair trade practices such as failure to comply with the terms of the guarantee given to the products sold by entrepreneurs are also found. It is especially necessary to strengthen the obligation to provide a guarantee for the product when purchasing the product through e-commerce. Because consumers do not have the opportunity to hold and inspect the product, the buyer is at greater risk when buying it. If the buyer has the opposite effect of the expected result from the advertisement, the entrepreneur's failure to fulfill the promise given in the product warranty creates a unfair trade practice. It is also a unfair business practice for a businessman to give false reviews and testimonials about his products, and it is also a mistake to invent something unknown and write a sensational advertisement on its behalf.

Listing. In the implementation of e-commerce, it is usually possible to get a very high income from listing services on electronic platforms. Listing is when a particular competitor pays subscription fees to get their products listed at the top of various search platforms in order to make them stand out from other competitors. As a result of this practice, when consumers search for these types of products through the platform, their product appears at the top of the search, and as a result, consumers are more likely to see and buy their product first.

The reason why listing is an anti-competitive practice is that as a result of large business entities buying up all the top positions in the listing for their products, the remaining competitors can only have a place at the bottom of the platform's search list. Due to the very low probability that the consumer will get acquainted with a product or service with a lower position in the listing, small business entities whose products and services are not sharply different from those of others may suffer from reduced access to e-commerce markets.

Retargeting advertisements. The consumers express interest in the necessary product from the website of the e-commerce company and places it in the e-commerce basket for future purchase. After that, the consumers begin to face advertising pressures that recommend the purchase of the product that they chose, but did not buy, through advertisements on all social networks. Such pressure continues until the consumers buy the product. Although this dishonest practice is a good opportunity to increase sales, it limits the consumers' choice. Such ads do not offer

the consumers other options, but instead show them the product they left in the e-shopping cart. This creates conditions for the emergence of unfair trade practices and limits the display of similar products that can be used as alternatives to the product. Not giving customers a variety of options to choose from and limiting competition by showing only one product.

In Uzbekistan, there is a need to fully form a mechanism for legal regulation of anti-competitive actions in the digital market. The development of electronic commerce in the digital market creates the need to fight against practices that harm consumers. The e-commerce regulations establish a detailed system for such commercial entities to monitor and prevent any unfair trading practices by sellers on their platforms. It also forces them to have adequate internal mechanisms to avoid price manipulation and deal with consumer complaints.

In the developing digital market, trade relations are widely implemented through artificial intelligence. It is used by large and small online trade and service providers such as Alibaba, Uber, Yandex taxi, which sell and deliver goods with the help of artificial intelligence. In particular, given that it is implemented by means of artificial intelligence, electronic programs in the digital market accept orders in standard cases without the human factor, provide goods and services, as well as receive and analyze complaints, pay for damage and eliminate its consequences. performing functions such as Considering that unfair competition in the digital market is carried out with the help of various programs, in particular, artificial intelligence, when unfair competition is carried out by electronic programs in the digital market – artificial intelligence, the result of which is the creation of an artificial intelligence program it is also necessary for the person to be responsible.

In particular, electronic programs in the digital market perform tasks such as accepting orders, providing goods and services, receiving and analyzing complaints, paying damages and eliminating their consequences in standard cases without the human factor. Considering that unfair competition in the digital market is carried out with the help of various programs, in particular, artificial intelligence, when unfair competition is carried out by electronic programs in the digital market – artificial intelligence, the result of which is the creation of an artificial intelligence program it is also necessary for the person to be responsible.

In addition, it is concluded that most of the unfair practices are carried out by misleading consumers, favoring various competing entities on the Internet and encroaching on consumer autonomy. In this regard, due to the lack of legal regulation of such anti-competitive practices in the digital market, the absence of specific mechanisms that ensure and protect fair competition in electronic trade relations, and the great need for an effective means of combating modern types of unfair competition in electronic trade in the digital market, "internet neutrality" (Net neutrality) principle should be reflected in legal documents.

The principle of "Net neutrality" is the basis of a free and open Internet, which ensures equal access to Internet platforms and prohibits any form of consumer discrimination. According to it, no service provider can offer discriminatory terms or charge for data services based on content.

As a means of preventing unfair trade practices in the digital market, some countries have implemented the policy of "Net neutrality" and are adopting relevant regulatory legal documents. In Uzbekistan, there is a need to develop a new regulatory form of combating unfair competition in the digital market by reflecting this principle in legislative documents. In this regard, the development of a regulatory legal document on "net neutrality" prohibits any discrimination, restriction or interference with internet content in electronic trade relations, including blocking, discrediting the offered goods or services, attempting to reduce the value, speed of operation serve to limit practices such as throttling or providing preferential speeds. In addition, the consumer will be prevented from favoring various competing subjects on the Internet and interfering with the consumer's autonomy.

In the regulatory legal document on "net neutrality", to support fair business activities and prevent unfair trade practices, to introduce certain disclosure and transparency requirements to ensure compliance with the principles of net neutrality, The establishment of a strong data protection regime, the development of security standards against the violation of consumer autonomy, the coverage of issues such as data encryption and storage can become an effective means of combating unfair competition in the digital market.

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