

## Original Paper

# Legal Regulation of Harassment over Food Delivery Reviews

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### Abstract

*This study uses literature and logical analysis to explore the legal regulation of the harassment of poor reviews of takeaways. The study finds that the right to bad reviews has the attributes of both supervisory rights and personality rights, and its protection is of great value to the market order, personality dignity and platform governance, but faces the dilemmas of ambiguous legal characterisation, unclear platform responsibilities and difficulties in defending rights, which are manifested in the problems of cross-criminal and civil identification, inconsistent application of laws and imbalance of evidence. In this regard, we propose a “legislation-platform-rights protection” trinity programme: refining the legal qualitative standards, perfecting the platform responsibility system, and innovating the evidence and rights protection mechanism, which will provide a reference for consumer protection and platform governance in the digital economy.*

### Keywords

*consumer protection, Internet privacy, legal regulation*

## 1. Introduction

In recent years, with the popularisation of mobile internet and smart terminals takeaway platforms have risen rapidly and gradually become an important part of the modern consumer ecology, during which consumers play an important role in market regulation through the statutory right-the right to evaluation, which is explicitly stipulated in Article 39 of the E-Commerce Law, but along with the intensification of market competition. However, along with the intensification of market competition, the impact of bad user reviews on their ratings, rankings and orders is becoming more and more prominent, and merchants on the platform are facing significant operational pressure. In order to avoid the negative effect of bad reviews, some merchants take improper means such as harassment, threat and even privacy leakage to interfere with the user's right to evaluation, which has become a new type of network infringement, such behaviour is a direct infringement of the legitimate rights and interests of consumers, and is even more destructive to the platform's credit mechanism, which will exacerbate the

crisis of trust between the users and merchants, so there is an urgent need to carry out a systematic study at the theoretical and practical levels. The “2024 Evaluation Transparency Report” released by VWDianping shows that the platform intercepted 20,717,200 non-compliant evaluations and dealt with 1,562,700 times of harassment of bad evaluations in the whole year (Volkswagen Dianping, 2024), which not only reflects the effectiveness of platform governance, but also highlights the complexity and challenge of evaluation ecological construction. This study takes this as an entry point to explore the balance of rights and interests in the online evaluation system and the governance mechanism, which not only aims to reveal the pain points and blockages in the current evaluation ecosystem, but also aims to build a set of comprehensive governance solutions that take into account the protection of consumers’ rights and interests, the maintenance of legitimate interests of merchants and the healthy development of platforms. At the theoretical level, this study will expand the theoretical connotation of consumer rights protection in the era of digital economy; at the practical level, the research results can provide useful references for the platform to optimise the governance rules, and the regulatory authorities to improve the policies and regulations, and ultimately promote the formation of a truthful, transparent and healthy online evaluation ecosystem, so that the benign cycle of consumers dare to evaluate, merchants focus on the service, and platforms are good at governance becomes possible.

## **2. The Need for Legal Regulation of Harassment of Poor Takeaway Reviews**

### *2.1 Guaranteeing Consumers’ Freedom of Evaluation and Human Dignity*

Consumers make use of the blockchain online evaluation system with evaluation content integrity, tamperability and traceability to provide truthful and fair evaluations, and report false or misleading reviews through the reporting and screening mechanism, which can achieve the virtuous cycle of the evaluation system (Shi, P. P., Sun, G. Q., Shi, W. P. et al., 2025, pp. 149-163), and when merchants implement harassment, intimidation or even retaliation against consumers due to bad reviews, consumers’ freedom of evaluation and human dignity are vulnerable to infringement, and the law’s regulation of such behaviours is conducive to the protection of individual rights and interests. The regulation of such behaviour is conducive to the protection of individual rights and interests. The protection of consumers’ freedom of evaluation and human dignity is embodied in the following aspects: first, respecting consumers’ true will and guaranteeing that evaluation is not coerced. According to Article 39 of the E-Commerce Law, consumers have the legal right to objectively evaluate goods and services, and legal regulation of harassment due to poor user reviews not only helps to ensure that consumers can freely evaluate based on their real experience, but also ensures that the evaluation mechanism will not be reduced to a form. Secondly, strengthen the responsibility of platform supervision and enhance the transparency of the evaluation system. Dong Jingbo believes that the state’s supervision of online platforms should achieve coordination between policy and platform autonomy, adhere to the principle of “network neutrality” and the principle of transparency of platform rules, and promote the realisation of regulatory goals by regulating platform technology (Dong, J. B.,

2022, pp. 70-82), thus, the law should establish a transparent mechanism for displaying and appealing against bad evaluations, and give play to the important role of takeaway platforms in safeguarding consumers' freedom of evaluation. The law should establish a transparent mechanism for displaying and appealing against bad reviews, and give play to the advantage of takeaway platforms in protecting consumers' freedom of evaluation. Third, balance the power contrast between merchants and consumers to maintain a fair trading environment. Merchants often occupy information and resource advantages in consumer relations, while the mechanism of bad reviews is one of the few checks and balances for consumers, and legal regulation is a strong guarantee for the correction of this inequality, and merchants should not be allowed to suppress bad reviews through harassment, which may lead to a further imbalance in the status of the two parties.

### *2.2 Maintaining the Normal Market Order and Integrity System*

Maintaining market order and a fair and transparent market environment requires every businessman to adhere to the principle of honesty and ensure the truthfulness of the services provided, which can be derived from ensuring the truthfulness and objectivity of the evaluation in the online evaluation mechanism. Meng Fanxin to enhance the level of governance of network service trading platform, aimed at effective governance mechanism construction, the deception and opportunistic behaviour in the service transaction to effectively constrain, stop and necessary punishment, so as to achieve the high-quality development of the network service trading market (Meng, F. X., 2023, pp. 32-42). The regulation of bad review harassment behaviour is the guardian of market integrity and transparency. First, to ensure the truthfulness and objectivity of evaluation is the basic respect for every consumer. Online consumption era, evaluation is not only a simple scoring and message, but also between consumers to pass the bond of trust, a real bad evaluation, can remind other consumers to avoid risk, when the invisible and intangible online takeaway service tends to be transparent, consumer rights and interests are further safeguarded. Secondly, when the word-of-mouth attribute of bad reviews is revealed, businesses can be forced to improve their services, thus forming a good atmosphere for upward competition. When individual merchants through harassment means to "eliminate" bad reviews and improve the ranking, other law-abiding operators will be forced to follow, otherwise it will be at a disadvantage in the algorithm recommendation, which will lead to the destruction of the market order, so that the regulation is also a sense of security to the business. Third, evaluation authenticity directly affects the efficiency of resource allocation. Legal regulation through clear behavioural boundaries and disciplinary standards, can rebuild "quality service-real praise-traffic reward" market positive cycle, so that the focus of business competition to return to the quality of service rather than public opinion manipulation.

### *2.3 Promoting Service Innovation and Industry Upgrading*

To promote service innovation and industry upgrading in order to better meet consumer demand and thus promote economic development, takeaway platforms and merchants need to continuously carry out service innovation and improve service quality and efficiency. The legal regulation of the

harassment of bad reviews of takeaways not only has a negative defensive value, but also promotes the innovation and upgrading of the catering and local life service industry in a positive way. Firstly, it forces service upgrading. When the law explicitly prohibits businesses from interfering with consumer evaluations through harassment, businesses will be forced to shift the focus of competition to improving the quality of food, delivery efficiency and after-sales service, which will in turn promote service innovation and healthy development of the industry. Second, bad reviews drive optimisation. Bad reviews themselves are real feedback in the market demand, when the business can not be suppressed through harassment of bad reviews will naturally be more proactive in analysing the content of the bad reviews, through the identification of shortcomings in the service and then promote product improvement or process re-engineering, this model of bad review-driven innovation is the original intention of the evaluation mechanism is also a healthy market should be a virtuous cycle. Third, regulate competition in the industry. From the perspective of the industry as a whole, the legal regulation of bad review harassment is equivalent to the establishment of a “competitive bottom line”, through the establishment of a “competitive bottom line” can prompt the industry to shift from low-end price wars or brushing marketing to high-quality competition centred on user experience, thereby promoting the transformation and upgrading of the entire service industry. The establishment of a “competitive bottom line” can prompt the industry to shift from low-end price wars or brush marketing to high-quality competition centred on user experience, thereby promoting the transformation and upgrading of the entire service industry.

### **3. The Real Dilemma of Legal Regulation of Bad Review Harassment Behaviour**

#### *3.1 Difficulty in Characterising Behaviour*

In judicial practice, the legal characterisation of bad review harassment faces a number of dilemmas, which are first reflected in the ambiguous area of civil tort determination. When merchants frequently call consumers or send harassing information due to bad reviews, it may involve the infringement of the right to privacy, the right to reputation and the right to peace of mind, etc. However, the current Civil Code does not clearly define the boundaries of these rights, which are generally divided into two situations: one is simple telephone bombing, which may constitute an infringement of the right to peace of mind, and the other is that it may be accompanied by verbal abuse and threats, which may simultaneously infringe the right to reputation, and this phenomenon of competing rights has a significant impact on whether judges can accurately apply the law when adjudicating the case. This phenomenon of competing rights makes it difficult for judges to apply the law accurately when making decisions. Secondly, it is often difficult to quantify the damage caused by the infringement, and the damage suffered by consumers mainly manifests itself in mental suffering and daily life, with mental suffering including anxiety, fear and other negative emotions caused by the continuous harassment, and interference in daily life manifesting itself in the form of reduced concentration at work, limited social activities and other specific aspects. These damages are obviously subjective and persistent, and are

difficult to be verified by objective means such as medical examination and the lack of uniform assessment standards, in judicial practice, the quantification of damages caused by infringement of rights has always been faced with significant difficulties, which can be seen in the harassment of takeaways in the case of bad reviews is a difficult point. Finally, the anonymity of the network has increased the difficulty of proof. Consumers will face technical obstacles in proving that the harassing calls actually came from the poorly rated merchants, and in reality, even if the harassed consumers inquire about the number through the operator, they may also encounter the merchants using the “black card” or the virtual number as a means of circumvention, so the difficulty of proof is a cause for concern.

In terms of criminal identification, the harassment of bad reviews may constitute offences such as provoking trouble and infringing on citizens’ personal information, but there are still gaps in the existing law in terms of behavioural characterisation, rules of evidence and the appropriateness of the offence. Firstly, there are disputes over the application of the criminal law offences of provoking trouble and insults to the harassment of bad reviews, and it is difficult for general telephone harassment to meet the “aggravating circumstances” criterion, unless it results in extreme consequences such as consumer suicide. Secondly, it is difficult to grasp the scale of the determination of threatening words, the so-called “I know your home address” of the merchant may be deemed to be just a statement of fact rather than a clear threat, and it is yet to be confirmed whether the public security authorities have filed a case against such grey words. Finally, criminal investigations are faced with the problem of evidence collection and evidence fixing. In daily life, consumers often lack the awareness of evidence collection and do not record harassing phone calls, which leads to the loss of evidence, and even if there are recordings, they are often unable to form a complete chain of evidence due to the ambiguity of the content. What is more problematic is that when the harassment behaviour is scattered in multiple minor actions, the behaviour from the constituent elements of the analysis do not constitute a crime, but overall it causes serious distress to consumers, so the poor evaluation of the harassment behaviour in the criminal law level of the legal qualification is also particularly difficult.

### *3.2 Lack of Accountability Mechanisms for Platforms*

Currently, there is an obvious lack of responsibility mechanisms for takeaway platforms in the event of harassment by bad reviews, which is mainly reflected in two aspects: the legal gap of the platform’s prior prevention obligations and the delayed response to complaint handling and information blocking. Although Article 39 of the E-Commerce Law stipulates in principle that platforms should provide consumers with evaluation channels and prohibit merchants from interfering with them, there is a lack of detailed requirements on how to build an effective harassment prevention mechanism, and the platform, as a rule maker that holds the right to review the qualifications of the merchants, the right to distribute order information and the right to display evaluations, should, at the level of information protection, block the merchants “access to the consumers” private information through technological means as well as However, in reality, most platforms ignore these preventive measures, focusing on the

fact that the complained merchant can continue to obtain consumer information by changing its account, which shows that the effect of the existing mechanism on preventing merchants from continuing to obtain consumer information through other means remains to be seen.

More critically, the law does not specify the presumption of liability of platforms in the case of bad review harassment, leading to platforms often shirking their responsibilities on the basis of “technological neutrality”, and the ambiguity of this preventive obligation essentially condones the growth and spread of harassment behaviour. In the aftermath, the platform’s complaint handling and information blocking mechanism has a lag, when consumers complain to the platform after experiencing harassment, the complex evidential requirements and lengthy review process often discourage defenders, for example, consumers to find the complaint portal often due to the platform’s design is hidden in the multi-level menus and spends time, and in addition, when complaining, consumers are required to collect their own call logs, text message screenshots, and other evidence. In addition, it is clearly unfair to shift the burden of proof entirely to the victim. At the same time, the platform’s disciplinary action against merchants mainly takes measures such as deducting credit scores and issuing warnings, and rarely implements more binding dispositions such as downgrading the shop or temporarily taking it offline. To sum up, platforms have failed to play a key role in protecting consumer rights and interests as well as technical means, and the takeaway industry urgently needs platforms to prevent and punish bad reviews and harassment through technical and rule-based means, so as to complement or replace the government’s external supervision.

### *3.3 Barriers to Proof of Rights and Remedies*

Consumers are prone to encounter technical difficulties in the process of obtaining evidence, especially for the traceability of nuisance calls and SMS, there are obviously objective obstacles for individual consumers without technological support, especially in the case of harassment by merchants using virtual numbers or non-real-name registered communication tools, even if consumers save the call records and the content of the text messages, it is difficult to establish a direct link with a specific merchant. The asymmetry of information makes it difficult for consumers to establish a direct link with a particular merchant even if they keep call records and SMS content, while the call records provided by the operator usually only show the number without confirming the identity of the actual user. In addition, the voice information and text records of instant messaging software are easy to tamper with, and their evidentiary validity may be challenged in judicial determinations. These technical factors objectively increase the difficulty for consumers to prove their case. On the other hand, there are also concerns about the cost-benefit ratio of judicial remedies. When consumers defend their rights through formal legal channels, they usually need to invest considerable time and economic costs, including litigation fees, attorney’s fees, and loss of lost time due to court appearances, etc., and the remedies that can be obtained are often based on cessation of harassment and compensation for moral damages, which may be unbalanced between the amount of compensation and the investment in defending their rights. Balance, at the same time, the time span of the litigation process may be up to several months,

and this time cost further affects consumers' motivation to defend their rights (Yang, Y. N., 2024, pp. 60-77).

#### **4. The Path to Improvement of the Legal Regulation of Bad Review Harassment Behaviour**

##### *4.1 Substantive Law Level: Building a Multilevel Liability System*

It is proposed to improve the regulation system of bad review harassment in three aspects: first, to refine the legal norms, issue a judicial interpretation of Article 39 of the E-Commerce Law, clarify the identification criteria of harassment behaviours, such as more than three consecutive contacts in non-normal time periods, the use of insulting and threatening language, etc., and set up a provision on the right to make bad reviews in the Protection of Consumers Rights and Interests Law, so as to establish a gradient of legal responsibility; second, to optimize the liability determination mechanism, apply the "knowingly or should have known" standard to the platform, and require it to set up a conspicuous complaint portal and respond within 24 hours. The second is to optimise the liability determination mechanism by applying the "knowingly or should know" standard to platforms, requiring them to set up conspicuous complaint portals and respond to complaints within 24 hours, and applying the principle of "presumption of fault" to merchants, as well as establishing a multi-layered compensation mechanism that includes actual losses, moral damages, and punitive damages; the third is to strengthen the convergence of the laws by including serious harassment as an act that disrupts the social management order in the Public Security Administration Punishment Law, promoting collaborative law enforcement by the departments, and encouraging pilot projects in localities. Ultimately, the E-Commerce Law and the Consumer Rights and Interests Protection Law will serve as the core of a regulatory system covering the entire civil, administrative and criminal fields. By clarifying the boundaries of behaviour, lowering the threshold for defending rights, and strengthening law enforcement coordination, the systematic management of harassment by bad reviews will be formed.

##### *4.2 At the Level of Procedural Law: Optimising Mechanisms for Defending Rights*

It is proposed to build a comprehensive mechanism for the management of bad reviews and harassment: first, to strengthen the front-end disposal of platforms, requiring takeaway platforms to set up a 48-hour rapid response channel, take measures such as temporary shielding and account restriction, and mandatorily save order data for at least six months; and at the same time, to improve the rules of electronic evidence, lower the threshold of evidence for consumers, and recognise the effectiveness of legally documented communication records. Second, optimising dispute resolution procedures, developing a special module for online mediation, promoting simplified trial procedures, and supporting judicial confirmation of mediation agreements; introducing a litigation anti-harassment order, clarifying the platform's obligation to assist in enforcement, and imposing credit penalties on merchants who refuse to enforce the law. Thirdly, it has improved the collaborative governance system, established a data-sharing mechanism between administrative organs, judicial organs and platforms,

standardised the process of transferring criminal cases, and formed a three-tier linkage mechanism of “platform disposal-administrative mediation-judicial adjudication”, so as to realise a closed-loop procedure of prevention, mediation and disciplinary actions. Procedural innovations have improved the efficiency of rights protection, and a technology-enabled, multifaceted and common governance procedural safeguard model has been constructed.

#### *4.3 Platform Governance Level: Improving Technical Defence and Control*

To improve the legal regulation of bad review harassment at the platform governance level, it is necessary to give full play to the dual advantages of the platform as a market gatekeeper and technology controller, and to build a modern governance system that is prevention-oriented, technology-enabled, and multi-party collaborative. It is suggested that a comprehensive management system for bad reviews and harassment should be built from three dimensions: technical prevention and control, credit management and government-enterprise coordination. At the technical level, the platform should establish a “virtual number relay station” anonymous communication mechanism, assigning a temporary virtual number to each order, which will be automatically invalidated after the order is completed, and supporting the development of an intelligent semantic recognition system, which will monitor insulting and threatening language in the content of communications in real time, and automatically trigger early warning and archiving. At the same time, it has invested R&D resources to build an intelligent risk warning system, which can monitor abnormal communication patterns and achieve the function of “one-key protection”, etc. It is also equipped with a professional dispute handling team to conduct manual review to ensure the accuracy of technical judgement. In terms of credit management, the platform needs to establish a scoring system for merchants’ behaviour, incorporate bad reviews and harassment into the credit evaluation index, and implement step-by-step disciplinary measures: warning and mandatory training for the first violation; lowering search rankings and restricting promotions for the second violation; and suspending business or permanently going offline for the third or more violations. In the merchant shop page set up “integrity file” column, the public record of violations and the results of processing, to protect consumers’ right to know. These credit disciplinary measures should be connected with the credit supervision system of the market supervision department to avoid a regulatory vacuum. In terms of collaborative governance, the platform should regularly report complaint data and handling to the regulatory authorities, promptly transfer suspected illegal clues to the public security authorities, and open the data interface for random checks and inspections by the regulatory authorities. The establishment of a joint interview mechanism, the problem of outstanding business areas or categories, by the platform and the regulatory authorities to jointly interview merchants.

The above implementation path suggests a pilot first strategy, first in Beijing, Shanghai, Guangzhou and other developed cities in the digital economy to select key platforms to pilot, after maturity, through industry standards and other forms of industry-wide promotion, and ultimately the formation of technology prevention and control, credit constraints, government and enterprise coordination of



three-dimensional governance pattern.

## 5. Conclusion

Through the systematic analysis of the harassment behaviours of bad reviews on the seller platform, this study reveals that there are three core dilemmas in the current legal regulation: the difficulty of judicial application due to the ambiguity of behavioural qualification, the vacuum of governance formed by the lack of platform responsibility, and the obstacle of relief caused by the poor mechanism of defending the right, and the results of this study show that it is necessary to construct a “trinity” solution for the improvement of the legal regulation of the harassment of bad reviews. The research results show that to improve the legal regulation of bad review harassment, it is necessary to build a “three-in-one” solution: to refine the recognition standard and legal responsibility of harassment at the level of substantive law, to optimise the electronic evidence rules and dispute resolution mechanism at the level of procedural law, and to strengthen the technical prevention, control and credit discipline at the level of platform governance. The future needs to further improve the legal regulation system for bad reviews and harassment, improve the consumer rights and interests protection mechanism, and strengthen the platform governance responsibility, so as to build a fairer and safer online trading environment.

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